

EXHIBIT 12

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES,) 1:23-cv-00108-LMB-JFA
et al.,)
)
Plaintiffs,)
)
vs.)
)
GOOGLE LLC,)
)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF

KENDALL OLIPHANT

August 9, 2023

9:32 a.m.

Reported by: Bonnie L. Russo
Job No. 6031956

Veritext Legal Solutions

800-567-8658

973-410-4098

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<p style="text-align: right;">Page 2</p> <p>1 Videotaped Deposition of Kendall Oliphant 2 held at: 3 4 5 6 Paul, Weiss, Rifkind, Wharton & Garrison, LLP 7 2001 K Street, N.W. 8 Washington, D.C. 9 10 11 12 13 14 15 16 17 18 Pursuant to Notice, when were present on behalf 19 of the respective parties: 20 21 22</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES (CONTINUED): 2 3 4 Also Present: 5 Glen Fortner, Videographer 6 Michael A. Cannon, Chief Counsel for Economic 7 Affairs, United States Department of Commerce 8 9 Also Present Via Remotely: 10 Julia Wood, DOJ 11 Jeannie S. Rhea, Paul, Weiss, Rifkind, Wharton 12 & Garrison, LLP 13 14 15 16 17 18 19 20 21 22</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: 2 3 On behalf of the Plaintiffs: 4 RACHEL ZWOLINSKI, ESQUIRE 5 VICTOR LIU, ESQUIRE 6 ALVIN CHU, ESQUIRE 7 UNITED STATES DEPARTMENT OF JUSTICE 8 1331 Pennsylvania Avenue, N.W. 9 Washington, D.C. 20005 10 rachel.zwolinski@usdoj.gov 11 12 On behalf of the Defendant: 13 MARTHA L. GOODMAN, ESQUIRE 14 ANNE LISE CORRIVEAU, ESQUIRE 15 PAUL, WEISS, RIFKIND, WHARTON & 16 GARRISON, LLP 17 2001 K Street, N.W. 18 Washington, D.C. 20006 19 mgoodman@paulweiss.com 20 acorriveau@paulweiss.com 21 22</p>	<p style="text-align: right;">Page 5</p> <p>1 I N D E X 2 EXAMINATION OF KENDALL OLIPHANT PAGE 3 BY MS. GOODMAN 12 4 5 6 7 8 9 EXHIBITS 10 11 12 Exhibit 13 E-Mail Chain dated 1-17-23 48 13 CENSUS-ADS-0000244816-818 14 15 16 17 18 Exhibit 14 Integrated Communications 79 19 Contract 20 Version 2 21 10-5-18 22 CENSUS-ADS-0000387420-490 23 24 25 Exhibit 15 E-Mail dated 9-14-22 90 26 Attachment 27 CENSUS-ADS-0000248031-186 28 29 30 31 32</p>

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<p>1 2020 as compared to what is depicted on the</p> <p>2 2010 chart here?</p> <p>3 A. I honestly -- I do not recall what</p> <p>4 EDI means or DDS, so I'm not sure if those were</p> <p>5 systems that may have changed between 2010 and</p> <p>6 2020. But the gist of this is -- yes.</p> <p>7 MS. GOODMAN: Okay. All right. You</p> <p>8 can put that document to the side, and I would</p> <p>9 like to hand you another document which is</p> <p>10 marked Exhibit 15, Census Ads0000248031 through</p> <p>11 248185.</p> <p>12 (Deposition Exhibit 15 was marked</p> <p>13 for identification.)</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. And this is an e-mail from yourself</p> <p>16 to Kia Anderson dated September 14, 2022.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And the subject is: "Census</p> <p>20 Media 101 Deck," right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And you're sending the paid</p>	<p>1 what they are used for, how things have changed</p> <p>2 or at least as of the time of this document</p> <p>3 so...</p> <p>4 Q. And so you thought that this was a</p> <p>5 really good educational tool for Ms. Anderson,</p> <p>6 correct?</p> <p>7 MS. ZWOLINSKI: Objection. Form.</p> <p>8 THE WITNESS: I thought -- it was</p> <p>9 what I had that I could send that would at</p> <p>10 least get her started.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. And you endeavored to send her what</p> <p>13 you thought would be the most appropriate and</p> <p>14 informative material, correct?</p> <p>15 MS. ZWOLINSKI: Objection. Form.</p> <p>16 THE WITNESS: That was my goal.</p> <p>17 This is what I got to first.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Okay. So let's go through this deck</p> <p>20 a little bit. And you recall this was</p> <p>21 presented at the Media 101 training by Y&R,</p> <p>22 correct?</p>
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<p>1 Media 101 training that Y&R provided to the</p> <p>2 census bureau to Ms. Anderson, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And why were you sending this deck</p> <p>5 to Ms. Anderson?</p> <p>6 A. She wanted -- she wanted to know</p> <p>7 more about -- for context. Kia Anderson was</p> <p>8 detailed to HHS working on the public education</p> <p>9 campaign. She wanted to have a better</p> <p>10 understanding of media buying.</p> <p>11 Every agency buys media differently,</p> <p>12 but there are still some basic -- there is</p> <p>13 still some basic information that is just the</p> <p>14 same -- that's the same.</p> <p>15 She had no experience with media</p> <p>16 buying, and in order to have a better</p> <p>17 understanding of the conversations that were</p> <p>18 taking place in the room, she asked if I had</p> <p>19 anything that could provide, you know, just a</p> <p>20 basic understanding.</p> <p>21 And this is what I sent. It</p> <p>22 explained all the different types of media,</p>	<p>1 A. Yes.</p> <p>2 Q. And you attended?</p> <p>3 A. Yes.</p> <p>4 Q. Let's turn to Page 11,</p> <p>5 CENSUS-ADS-248042.</p> <p>6 What is this slide depicting?</p> <p>7 A. This slide depicts rudimentary</p> <p>8 visuals of various media channel options that</p> <p>9 are out there for use.</p> <p>10 Q. And how do you understand -- what's</p> <p>11 your -- strike that.</p> <p>12 What do you mean by "media channel</p> <p>13 options"?</p> <p>14 A. Television is a channel. Radio is a</p> <p>15 channel. Out of home, which includes</p> <p>16 billboards, bus -- sides of buses, sides of</p> <p>17 buildings, anything out of the -- out of the</p> <p>18 home, print, all of those.</p> <p>19 And then bottom row is the different</p> <p>20 -- a few of the different options within</p> <p>21 digital. So these are options or -- you know,</p> <p>22 of different media channels that can be used</p>

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<p style="text-align: right;">Page 94</p> <p>1 and how they're classified.</p> <p>2 Q. Would it also be accurate to refer</p> <p>3 to these different channels as different kind</p> <p>4 of types of products?</p> <p>5 MS. ZWOLINSKI: Objection. Form.</p> <p>6 THE WITNESS: I don't know that I</p> <p>7 would consider them products.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. Why not?</p> <p>10 A. Because within each there is so</p> <p>11 much. Print is a category. Out of home is a</p> <p>12 category. Paid social is a category. They are</p> <p>13 not products themselves.</p> <p>14 Q. But -- okay. Within paid social</p> <p>15 what are the options that you're referring to?</p> <p>16 A. Well, there are examples given here</p> <p>17 on the page: Social sharing platforms, chat</p> <p>18 apps, those are options. Those are other --</p> <p>19 you know, different options within paid social,</p> <p>20 and those are just a couple of options. Every</p> <p>21 day options increase --</p> <p>22 Q. Okay.</p>	<p style="text-align: right;">Page 96</p> <p>1 those that have been paid for. They are paid</p> <p>2 to move up to the top.</p> <p>3 So -- or you want to make sure -- so</p> <p>4 when we want it -- we wanted everything we did,</p> <p>5 anything that had census -- a question about</p> <p>6 census, we wanted the census bureau to pop up.</p> <p>7 So it could be a million and one different</p> <p>8 terms, but those terms triggered -- I don't</p> <p>9 know what you call it -- in the list that the</p> <p>10 census site is the first site that you go to.</p> <p>11 Q. Okay. So what -- I want to re-ask a</p> <p>12 question I think I already asked, but see if I</p> <p>13 can get a different answer, which is: What are</p> <p>14 the kinds of different options by name, by</p> <p>15 type, by provider within the programmatic</p> <p>16 category?</p> <p>17 MS. ZWOLINSKI: Objection. Form.</p> <p>18 THE WITNESS: I don't know.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Did you have occasion to learn those</p> <p>21 throughout -- learn the various options within</p> <p>22 that category during your time as COR for Order</p>
<p style="text-align: right;">Page 95</p> <p>1 A. -- in all of these categories.</p> <p>2 Q. And how about with respect to</p> <p>3 programmatic? What are the options that you</p> <p>4 understand to be available within that</p> <p>5 category?</p> <p>6 MS. ZWOLINSKI: Objection. Form.</p> <p>7 THE WITNESS: Within programmatic on</p> <p>8 this particular page, it really just gives you</p> <p>9 an idea of what programmatic is. It doesn't</p> <p>10 get into any of the options so when you're</p> <p>11 talking to somebody and you say programmatic</p> <p>12 versus paid search, you understand what the</p> <p>13 difference is between the two.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. And what are the differences between</p> <p>16 the two?</p> <p>17 A. My understanding is with paid search</p> <p>18 you are actually choosing search terms that you</p> <p>19 are paying for -- so when I am searching for</p> <p>20 something, no matter what platform I am on,</p> <p>21 what comes to the top of my search, the</p> <p>22 responses to my query, the very top entries are</p>	<p style="text-align: right;">Page 97</p> <p>1 15?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: No. What we learned</p> <p>4 is the different -- that there is a difference</p> <p>5 between these, and working together, they help</p> <p>6 extend our message. All of these are</p> <p>7 components of what were required for us to</p> <p>8 reach -- our goal was to reach almost</p> <p>9 everybody. We had a very short time frame, and</p> <p>10 we didn't -- we had to use every possible tool</p> <p>11 there was.</p> <p>12 So programmatic did not replace --</p> <p>13 replace paid search, did not replace digital,</p> <p>14 did not replace paid social, did not replace</p> <p>15 any of these. They all worked together like a</p> <p>16 team.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. And how did they -- how did you --</p> <p>19 how did the census bureau, from your point of</p> <p>20 view, execute on making sure that they worked</p> <p>21 together to reach all Americans to participate</p> <p>22 in the census?</p>

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<p>1 MS. ZWOLINSKI: Objection. Form.</p> <p>2 THE WITNESS: Well, we start with a</p> <p>3 media plan. The ad agency provides a</p> <p>4 recommended media plan based upon the agreed</p> <p>5 upon strategies that we've all come to agree</p> <p>6 upon.</p> <p>7 All the agencies purchasing media</p> <p>8 present the media plan to the census bureau.</p> <p>9 We evaluate it. We ask questions. We provide</p> <p>10 comments. Revisions are made based upon those.</p> <p>11 A final media plan is approved, and we -- while</p> <p>12 it is just a plan, it is an iterative plan that</p> <p>13 forms the base of what we do, and as needed, we</p> <p>14 will add to it.</p> <p>15 Every -- if you are blasting the</p> <p>16 message, all of these work. But as you move</p> <p>17 further into the actual event, there may be</p> <p>18 segments of the population or segments of the</p> <p>19 country that are not responding at the rate</p> <p>20 that you anticipated. So you go back into your</p> <p>21 tool chest to determine what is the best tool</p> <p>22 to use to help encourage, and that tool may not</p>	<p>1 But with respect to paid media,</p> <p>2 would you -- sorry.</p> <p>3 During the course of the execution</p> <p>4 of the campaign, did you make adjustments from</p> <p>5 moving money spent from one category to another</p> <p>6 category in order to reach your goal of</p> <p>7 targeting whichever particular audience you</p> <p>8 were not seeing the response rate from?</p> <p>9 MS. ZWOLINSKI: Objection. Form.</p> <p>10 THE WITNESS: In terms of moving</p> <p>11 from one category to another, can you be more</p> <p>12 specific.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. So if programmatic advertising was</p> <p>15 not delivering the result that you were hoping</p> <p>16 to see in terms of reach, would you shift some</p> <p>17 of the money spent on programmatic advertising</p> <p>18 to another category such as paid search,</p> <p>19 digital, or paid social?</p> <p>20 MS. ZWOLINSKI: Objection. Form.</p> <p>21 Foundation.</p> <p>22 THE WITNESS: So when we approve</p>
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<p>1 be paid media. It may be boots on the ground,</p> <p>2 which is not included in this because it's not</p> <p>3 paid media.</p> <p>4 But we had a lot of tools in our</p> <p>5 chest. So we would determine if there were --</p> <p>6 you know, paid -- use site directory, you go</p> <p>7 directly to a site. What is the -- what is</p> <p>8 the -- so we created -- we segmented the</p> <p>9 audience. We had an audience segmentation. We</p> <p>10 did a lot of research around messaging, and we</p> <p>11 took all that research, and we had an ongoing</p> <p>12 survey.</p> <p>13 We took all of that information. We</p> <p>14 talked to the people on the ground, and we</p> <p>15 determined if we needed to change anything and</p> <p>16 how -- what that change included.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. And so with respect to -- let's try</p> <p>19 to focus only on paid media --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- understanding there are many</p> <p>22 other tools.</p>	<p>1 spending -- and I'm sure you have looked at the</p> <p>2 media authorization forms because we had an</p> <p>3 example previously -- it is by audience, and</p> <p>4 there are funds allocated to the different</p> <p>5 media -- media channel options.</p> <p>6 In terms of digital, it is broken</p> <p>7 out by paid search -- paid social, site direct,</p> <p>8 paid search, and programmatic. We approve the</p> <p>9 total amount on that form for digital, and as</p> <p>10 we are evaluating effectiveness if there is --</p> <p>11 if we find that a particular audience is more</p> <p>12 predisposed to one type versus another, we do</p> <p>13 have that ability to move money.</p> <p>14 I can't necessarily say how often</p> <p>15 that happened because we normally within the</p> <p>16 bureau and within the presentations for the</p> <p>17 most part, we talk about digital as a whole.</p> <p>18 We don't talk about the differences between the</p> <p>19 categories. We want our ad agencies to use the</p> <p>20 options in the digital tool chest as</p> <p>21 appropriately as possible to help us reach our</p> <p>22 goal.</p>

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<p>1 BY MS. GOODMAN:</p> <p>2 Q. Now, you said within the bureau you</p> <p>3 talk about digital as a whole. Why is that?</p> <p>4 MS. ZWOLINSKI: Objection. Form.</p> <p>5 THE WITNESS: Because most people</p> <p>6 don't care about the difference. We -- we are</p> <p>7 not media buyers. We are looking at</p> <p>8 categories.</p> <p>9 So the vast people -- unless you are</p> <p>10 right up in this, and even if people who were</p> <p>11 right close to it, we didn't evaluate each</p> <p>12 individual piece of digital, right. We're like</p> <p>13 would digital work.</p> <p>14 We might ask whether or not we need</p> <p>15 to adjust our search terms. You might -- that</p> <p>16 might be a conversation, but -- or do we need</p> <p>17 to put more in social but in terms of site</p> <p>18 direct and programmatic, that fell within the</p> <p>19 digital moniker.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. And so from your point of view, were</p> <p>22 site direct and programmatic sort of -- not</p>	<p>1 more, correct?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: For context most</p> <p>4 people have no idea where they get their</p> <p>5 messages. So you cannot rely on one form of</p> <p>6 media for the message to seed. You've got to</p> <p>7 surround them with the messaging so that the</p> <p>8 first few times it may not really click.</p> <p>9 You've watched a commercial. It may</p> <p>10 be four -- the fourth time you heard that</p> <p>11 commercial before something in it makes you</p> <p>12 really look up and pay attention, or you might</p> <p>13 like something in the commercial but still not</p> <p>14 know what that commercial is advertising</p> <p>15 because you're only focused on one piece.</p> <p>16 In order to effectively reach the</p> <p>17 number of people that we needed to reach and --</p> <p>18 and -- and -- and -- and -- and -- and -- and</p> <p>19 encourage response for a complete census, we</p> <p>20 needed a holistic -- we needed a holistic</p> <p>21 approach. We needed to hit them -- serve</p> <p>22 messaging from every possible angle.</p>
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<p>1 that they were the same thing, but you thought</p> <p>2 about them in the same way?</p> <p>3 MS. ZWOLINSKI: Objection. Form.</p> <p>4 THE WITNESS: We did not think about</p> <p>5 them. We trusted our ad agencies to -- once we</p> <p>6 had approved the plan, to reach our audience</p> <p>7 the best way they could within that plan,</p> <p>8 within the -- within the integrity of the plan</p> <p>9 or the spirit of the plan.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. If you turn to Page 13 of the deck,</p> <p>12 Bates ending 44. Is it fair to say that this</p> <p>13 slide shows that what matters to the census</p> <p>14 bureau is reaching a consumer wherever they may</p> <p>15 be found?</p> <p>16 MS. ZWOLINSKI: Objection. Form.</p> <p>17 THE WITNESS: That is safe to say.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. And so just as you might reach a</p> <p>20 consumer through a display banner in the first</p> <p>21 bullet, you also need to consider whether you</p> <p>22 can reach them by Googling a product to learn</p>	<p>1 And so you get up in the morning.</p> <p>2 It might be on the morning news, or it might be</p> <p>3 a commercial -- it might be a story on the</p> <p>4 morning news, right. That's earned media. For</p> <p>5 paid media it may be on TV. It might be -- you</p> <p>6 might be -- if -- it all depends on how you</p> <p>7 take your media, how you receive your media.</p> <p>8 That's where it hits you the most. But I can't</p> <p>9 count on that being the only source of you</p> <p>10 accepting the message.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. And turning to Page 17 ending in 48,</p> <p>13 how -- how is the optical -- strike that.</p> <p>14 I am reading in the second bullet</p> <p>15 where it begins: "Paid media." My question</p> <p>16 is: How is the optimal mix for efficient and</p> <p>17 effective performance for paid media determined</p> <p>18 for the -- you know, as census was executing on</p> <p>19 the 2020 campaign?</p> <p>20 MS. ZWOLINSKI: Objection. Form.</p> <p>21 THE WITNESS: So as the sentence</p> <p>22 reads, we have many research tools and</p>

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<p>1 resources. So we conduct a lot of research.</p> <p>2 We conducted the -- we conducted research with</p> <p>3 each audience group to determine what their</p> <p>4 motivations were to respond, what their</p> <p>5 barriers were to respond, who did they accept</p> <p>6 messages from, how did they receive their</p> <p>7 media, what did they like to see in an ad,</p> <p>8 what -- what motivated them in an ad that would</p> <p>9 encourage them to even seek out additional</p> <p>10 information and hopefully, ultimately, respond.</p> <p>11 We segmented the population to</p> <p>12 determine those that are most likely to respond</p> <p>13 and those that are least likely to respond on a</p> <p>14 spectrum of a whole -- of numerous number of</p> <p>15 segments and, within each segment,</p> <p>16 understanding that audience cross -- audiences</p> <p>17 cross segments. What is the best way to reach</p> <p>18 them? What's an optimal mix? It depends upon</p> <p>19 that particular audience that we're trying to</p> <p>20 reach. It's not one size fits all.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. And so in -- in that respect</p>	<p>1 language media. Some people call it general</p> <p>2 audience. Within that grouping there are all</p> <p>3 age ranges, and just because you're older,</p> <p>4 most -- many older people, depending upon where</p> <p>5 they are in age, do not engage with digital</p> <p>6 media fully or they don't even know how they're</p> <p>7 engaging. So you're not going to not serve</p> <p>8 them digital ads, but you may not serve as much</p> <p>9 to that audience -- that -- that age range as</p> <p>10 you serve to a younger age range.</p> <p>11 But even with the younger age range,</p> <p>12 it depends upon the audience and access. So it</p> <p>13 doesn't make sense if I am in the middle of</p> <p>14 nowhere with no Internet access to have my</p> <p>15 media plan to reach anyone living there only be</p> <p>16 digital because they're not going to get it.</p> <p>17 So an optimal mix has a lot of</p> <p>18 factors: Location, audience, media -- media</p> <p>19 inputs, media -- what -- how they experience</p> <p>20 media, what they want to see, what they are</p> <p>21 aware of. It takes the holistic approach in</p> <p>22 order for you to actually reach people in a way</p>
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<p>1 determining an optimal -- optimal mix among,</p> <p>2 let's say, digital search, digital social,</p> <p>3 digital programmatic, digital site direct, do</p> <p>4 you need to allocate among those four</p> <p>5 categories to reach the audience you're</p> <p>6 attempting to reach; is that right?</p> <p>7 MS. ZWOLINSKI: Objection. Form.</p> <p>8 THE WITNESS: It depends on the</p> <p>9 audience. Different audiences encounter or</p> <p>10 experience digital in different ways. Half of</p> <p>11 them don't even realize.</p> <p>12 Example: There are people that you</p> <p>13 will ask if they search the Internet or do they</p> <p>14 have access to the Internet, and they will say</p> <p>15 no. Then you ask them do they use Facebook,</p> <p>16 and they will say yes not understanding that</p> <p>17 Facebook is an Internet based app.</p> <p>18 So you don't -- there is no way to</p> <p>19 sit and say that you only use this, this, or</p> <p>20 this. Within each audience there is a mix.</p> <p>21 There are people within diverse</p> <p>22 mass, that is anyone who consumes English</p>	<p>1 that -- and there are still people now that</p> <p>2 will tell you they never saw a census ad.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. And so, you know, you talked about</p> <p>5 the example of within diverse mass, older</p> <p>6 people, many of whom might not consume as much</p> <p>7 digital media as somebody in a younger range?</p> <p>8 A. Or more tech -- I'm sorry.</p> <p>9 Q. That's okay.</p> <p>10 And so when you are considering how</p> <p>11 to serve the different age groups within the</p> <p>12 diverse mass audience, do you consider the</p> <p>13 kinds of digital access that those audiences</p> <p>14 engage in to make allocations between, for</p> <p>15 example, paid social, programmatic, site</p> <p>16 direct?</p> <p>17 MS. ZWOLINSKI: Objection. Form.</p> <p>18 THE WITNESS: It's not that simple.</p> <p>19 It's not just about the age group. The target</p> <p>20 may -- what defines a target audience may not</p> <p>21 necessarily be age. Within a target audience</p> <p>22 and within -- within a segment of the</p>

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<p style="text-align: right;">Page 122</p> <p>1 don't -- we don't trust -- we trust but verify. 2 I have to prove that -- before my name goes to 3 sign off on payment of an invoice, that there 4 is proper documentation. 5 So Y&R had on their SharePoint site 6 documentation for every invoice we received, 7 and there is a lot of documentation. 8 So we would go to their site. We 9 would review the invoice line by line, look at 10 all the documentation for every invoice, and if 11 it matched -- if we had any questions, we would 12 contact them. If we didn't understand 13 anything, we would contact them. But as long 14 as everything was in order, we would approve 15 the invoice for payment. 16 BY MS. GOODMAN: 17 Q. And do you recall any instance in 18 which you did not approve an invoice for 19 payment for digital ad purchases? 20 MS. ZWOLINSKI: Objection. Form. 21 THE WITNESS: I cannot recall 22 specifically for digital, no.</p>	<p style="text-align: right;">Page 124</p> <p>1 If we could not do any of that, we 2 would completely reject the invoice. We would 3 let Y&R know it was rejected, why it was 4 rejected and ask them to fix it and send it 5 back as a revised -- with a new invoice number. 6 BY MS. GOODMAN: 7 Q. If Y&R did not agree with your 8 reasoning for rejecting an invoice, did Y&R 9 still have to pay out to the subcontractor or 10 to the vendor -- 11 MS. ZWOLINSKI: Objection -- 12 BY MS. GOODMAN: 13 Q. -- even if the census bureau had 14 rejected the invoice? 15 MS. ZWOLINSKI: Objection. Form. 16 Foundation. 17 THE WITNESS: My understanding is 18 Y&R did not pay the subs until the invoice was 19 approved and -- and funding was either -- had 20 been received or was on the way. 21 So they did not reject payment -- it 22 was up to the media vendor. All vendors were</p>
<p style="text-align: right;">Page 123</p> <p>1 BY MS. GOODMAN: 2 Q. Okay. What would you -- what would 3 your process be if you did not approve an 4 invoice for payment? 5 A. Ideally because most of your -- 6 well, because Reingold was a small business -- 7 even though the prime was a large business, our 8 goal was to make sure the small business gets 9 paid as quickly as possible. 10 If there were any discrepancies, we 11 worked directly with Y&R and Reingold to see if 12 we could correct those discrepancies. If there 13 was missing documentation, we'd see if they 14 could send it forward or upload it to their 15 SharePoint site so we could check it. If it 16 was -- it could be something simple; like on 17 the cover sheet that lists out every invoice 18 with the amount, that the amount on the cover 19 sheet did not match the amount on the invoice. 20 If it was small, we could do a pen-and-ink 21 change and alter the bottom line only if it was 22 less, never if it was more.</p>	<p style="text-align: right;">Page 125</p> <p>1 informed upfront before they agreed to run our 2 ads. It was part of the agreement, the 3 contract they signed, what they had to provide 4 in order to receive payment. It was very 5 clear. 6 And if they did not provide it, it 7 was up to the -- the buying agency that 8 purchased the ad to go back and get it. Right. 9 So we're going to keep going back and forth. 10 Our goal is never to not pay for what ran. We 11 are trying our best to pay, but we need that 12 documentation. 13 So it may take -- ideally, it 14 shouldn't take but a few days, but sometimes it 15 might take months, you know. 16 And then with COVID, it was 17 difficult because a lot of vendors just weren't 18 there, depending on audience, depending on the 19 type of media. So digital wasn't one of them. 20 Digital was booming during COVID. 21 But, yeah, if there was -- we 22 would -- if we had to short-pay, we would, but</p>

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<p>1 we would always explain why, what we were</p> <p>2 doing, and what we did not pay and why we did</p> <p>3 not pay it so as to not hold up the -- the</p> <p>4 invoice. It was never our goal to -- in some</p> <p>5 cases we rejected invoices totally, and then it</p> <p>6 just got to a point where we've got to pay.</p> <p>7 You can't hold up an invoice for, you know --</p> <p>8 it's -- the goal is to pay the vendors. So we</p> <p>9 would do everything we can working with Y&R and</p> <p>10 the subcontractor to get what we needed to</p> <p>11 approve payment.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Okay. You used the term</p> <p>14 "short-pay." What does that mean?</p> <p>15 A. Short-pay means when you don't pay</p> <p>16 the full amount invoice. In one example I gave</p> <p>17 you where an amount may be higher here on a --</p> <p>18 on the -- on the list of invoices but in the</p> <p>19 actual documentation it was lower, we would do</p> <p>20 the pen and ink and we would change it. It</p> <p>21 would be lower, and we would provide</p> <p>22 documentation as to why.</p>	<p>1 top of it that would go to Y&R, and Y&R's cover</p> <p>2 sheet would go on top of it. So we would get a</p> <p>3 stack of invoices like that, but yes.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Okay. And did you maintain copies</p> <p>6 of all of those invoices, or did you rely only</p> <p>7 on the SharePoint site of Y&R?</p> <p>8 MS. ZWOLINSKI: Objection. Form.</p> <p>9 THE WITNESS: The invoices that --</p> <p>10 the backup documentation was so voluminous,</p> <p>11 census could not maintain it on its site. It</p> <p>12 has been three years since I've really looked</p> <p>13 at a census -- one of these invoices.</p> <p>14 I -- I don't -- I don't think so</p> <p>15 because that would be considered backup</p> <p>16 documentation, and we didn't really -- the</p> <p>17 backup documentation was on Y&R's SharePoint</p> <p>18 site.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. So I just want to make sure we're</p> <p>21 talking about the same thing and understand --</p> <p>22 that I am understanding correctly.</p>
Page 127	Page 129
<p>1 Q. And do you recall ever short-paying</p> <p>2 any invoices for digital media purchases?</p> <p>3 A. For context, we never got invoices</p> <p>4 that said just digital. I don't doubt that</p> <p>5 there were some that were just digital, but</p> <p>6 oftentimes, an invoice would have multiple</p> <p>7 agencies and multiple media types, so the</p> <p>8 answer is I don't recall.</p> <p>9 Q. Okay. And so in the course of your</p> <p>10 -- were you responsible for approving invoices</p> <p>11 for payments?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And in the course of your</p> <p>14 work doing that in connection with the 2020</p> <p>15 census, do you recall ever seeing invoices at</p> <p>16 the level of granularity like an invoice from</p> <p>17 Google?</p> <p>18 MS. ZWOLINSKI: Objection. Form.</p> <p>19 THE WITNESS: We would have to see</p> <p>20 the original invoice from Google that was sent</p> <p>21 to the -- I guess it would go to Reingold, and</p> <p>22 then there would be Reingold's cover sheet on</p>	<p>1 An invoice from a vendor to Reingold</p> <p>2 in the example of Google sending an invoices to</p> <p>3 Reingold, that is considered backup</p> <p>4 documentation that would be in the possession</p> <p>5 of Rein- -- of Y&R --</p> <p>6 A. Yes.</p> <p>7 Q. -- is that correct?</p> <p>8 A. Yes.</p> <p>9 MS. ZWOLINSKI: Objection. Form.</p> <p>10 THE WITNESS: Sorry.</p> <p>11 MS. ZWOLINSKI: That's okay.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Turning to Page 37 of the deck we're</p> <p>14 looking at, what does the bullet "changing</p> <p>15 video landscape" refer to?</p> <p>16 A. When I look at it, I remember when</p> <p>17 Vine was out, right. That's -- am I dating</p> <p>18 myself? But Vine was only here for a minute.</p> <p>19 Everything online changes. There</p> <p>20 are new sites popping up, sites disappearing.</p> <p>21 Just because there is a site that everybody is</p> <p>22 using doesn't mean we use it. TikTok would</p>

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<p style="text-align: right;">Page 130</p> <p>1 fall under the changing video landscape. We</p> <p>2 did not advertise on TikTok.</p> <p>3 But it's just -- it's just</p> <p>4 considering the fact that people are -- they</p> <p>5 are consuming video content in different ways</p> <p>6 and using sites that are not always approved by</p> <p>7 the federal government despite the fact that</p> <p>8 they are very popular sites.</p> <p>9 Q. And how about the bullet "shift in</p> <p>10 digital buying process and technology"? What</p> <p>11 does that mean?</p> <p>12 A. If you compare 2020 to 2010 digital</p> <p>13 has evolved at an enormous rate. What we were</p> <p>14 used to in 2010 is completely different from</p> <p>15 what it is now or what it was in 2020. The</p> <p>16 number of sites has -- have grown</p> <p>17 exponentially.</p> <p>18 So in order to reach all the people</p> <p>19 or people that would visit obscure sites, what</p> <p>20 I might consider an obscure site, the digital</p> <p>21 world -- I'm -- they've created ways to help</p> <p>22 you target based on behaviors, based on age,</p>	<p style="text-align: right;">Page 132</p> <p>1 A. Uh-huh.</p> <p>2 Q. Do you see the bullet, the last</p> <p>3 bullet, beginning "realtime bidding"?</p> <p>4 A. Yes.</p> <p>5 Q. To your knowledge, how did the</p> <p>6 census bureau engage in realtime bidding under</p> <p>7 its contracts with Y&R for purposes of the 2020</p> <p>8 census?</p> <p>9 MS. ZWOLINSKI: Objection. Form.</p> <p>10 THE WITNESS: Y&R and their</p> <p>11 subcontractors that were responsible for</p> <p>12 purchasing media space on behalf of the census</p> <p>13 bureau were empowered to manage this. The</p> <p>14 census bureau, while they were working on our</p> <p>15 behalf, we did not participate in this</p> <p>16 directly.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Okay. So did the census bureau have</p> <p>19 a role in selecting, for example, what ad</p> <p>20 exchanges to use as part of realtime bidding?</p> <p>21 MS. ZWOLINSKI: Objection. Form.</p> <p>22 THE WITNESS: The census bureau</p>
<p style="text-align: right;">Page 131</p> <p>1 based on race, based on consumption habits, all</p> <p>2 kinds of thing.</p> <p>3 So as of -- this is really to</p> <p>4 explain to us in this document it's not the way</p> <p>5 it was. You've got to take a second look at</p> <p>6 how digital operates, and because digital has</p> <p>7 changed so much in ten years, how you buy it is</p> <p>8 different as well.</p> <p>9 I honestly do not recall if in 2010</p> <p>10 you could do programmatic buying. You probably</p> <p>11 could. I don't know. I don't remember</p> <p>12 learning anything about the difference between</p> <p>13 programmatic and site direct, and the digital</p> <p>14 was such a minimal part of our budget in 2010.</p> <p>15 Considering the size of our budget, we needed</p> <p>16 to be sure we understood why it was important</p> <p>17 to put more money towards digital.</p> <p>18 Q. And what are the -- the different</p> <p>19 buying processes referred to in this bullet to</p> <p>20 your knowledge?</p> <p>21 A. I don't recall.</p> <p>22 Q. Can you turn to Page 51.</p>	<p style="text-align: right;">Page 133</p> <p>1 relied on their buying agencies, who are buying</p> <p>2 on behalf of the census bureau, to determine</p> <p>3 the best ad exchanges based upon what would be</p> <p>4 best for the campaign, what was most efficient</p> <p>5 and effective.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. And did the census bureau permit the</p> <p>8 ad agencies to use multiple ad exchanges if</p> <p>9 they determined that was in the best interest</p> <p>10 of the bureau?</p> <p>11 A. Absolutely.</p> <p>12 Q. And did you direct the ad agencies</p> <p>13 to use any Google ad exchanges or Google-owned</p> <p>14 ad exchanges?</p> <p>15 MS. ZWOLINSKI: Objection. Form.</p> <p>16 THE WITNESS: We did not direct the</p> <p>17 ad agencies to focus on any one media vendor.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. And do you agree that realtime</p> <p>20 bidding permitted your contractors to obtain</p> <p>21 the best price possible for media inventory?</p> <p>22 A. I don't know.</p>

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<p style="text-align: right;">Page 134</p> <p>1 MS. ZWOLINSKI: Objection to form.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. Okay. Do you agree -- or what's</p> <p>4 your understanding of whether realtime bidding</p> <p>5 succeeds in obtaining the best price as</p> <p>6 possible for media inventory?</p> <p>7 MS. ZWOLINSKI: Objection. Form.</p> <p>8 THE WITNESS: I don't have one.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. I would like to go to 107. So --</p> <p>11 actually, why don't we turn to page -- we're</p> <p>12 losing page numbers.</p> <p>13 A. I was going to say.</p> <p>14 Q. 1 -- Bates ending 134.</p> <p>15 A. Yes.</p> <p>16 Q. Okay. So now we're in a section of</p> <p>17 the deck called: "Understanding Digital Media</p> <p>18 Channels."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And if we go now to Slide</p> <p>22 107, which is Bates ending 138, the slide is</p>	<p style="text-align: right;">Page 136</p> <p>1 programmatic --</p> <p>2 MS. ZWOLINSKI: Objection.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. -- search?</p> <p>5 MS. ZWOLINSKI: Objection. Form.</p> <p>6 THE WITNESS: They clearly do not</p> <p>7 look like search, but that's the only</p> <p>8 determination I can make for you.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And when you use -- when the census</p> <p>11 bureau -- strike that one.</p> <p>12 Turning to 128, we are talking about</p> <p>13 programmatic here.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And does programmatic advertising</p> <p>17 refer -- strike that.</p> <p>18 In what way -- then if you look at</p> <p>19 Page 129, where it says: "Increases in mobile</p> <p>20 streaming and publisher offerings."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p>
<p style="text-align: right;">Page 135</p> <p>1 titled: "Expanding Formats and Channels."</p> <p>2 What is the difference between a</p> <p>3 format and a channel?</p> <p>4 MS. ZWOLINSKI: Objection. Form.</p> <p>5 THE WITNESS: I don't recall.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Okay. And so what you see here are</p> <p>8 a variety of different digital ads that exist</p> <p>9 in the world, fair?</p> <p>10 A. Uh-huh.</p> <p>11 MS. ZWOLINSKI: Objection. Form.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Okay. And -- so let's look at the</p> <p>14 Spotify example here.</p> <p>15 Did the -- did the census bureau</p> <p>16 advertise on Spotify?</p> <p>17 A. I don't recall.</p> <p>18 Q. Okay. And do you recall -- well,</p> <p>19 strike that.</p> <p>20 Looking at the slide, can you</p> <p>21 determine which kind of digital ad these are?</p> <p>22 In other words, paid social, site direct,</p>	<p style="text-align: right;">Page 137</p> <p>1 Q. Is it fair to say that programmatic</p> <p>2 bidding -- programmatic advertising can be</p> <p>3 purchased in a variety of internet means, such</p> <p>4 as mobile, streaming or different publisher</p> <p>5 offerings?</p> <p>6 MS. ZWOLINSKI: Objection. Form.</p> <p>7 THE WITNESS: I can't say.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. What's your understanding of what</p> <p>10 programmatic advertising is?</p> <p>11 A. My understanding of programmatic</p> <p>12 advertising, it is -- it's an opportunity for</p> <p>13 the ad -- our ad to be -- an ad to be served to</p> <p>14 multiple sites as opposed -- at one time, based</p> <p>15 upon criteria that is provided as opposed to,</p> <p>16 like, site direct, you know for sure you are</p> <p>17 going to ESPN or you know you are going to</p> <p>18 BuzzFeed or you know you are going to the BUMP</p> <p>19 or something like that.</p> <p>20 Programmatic allows your ad -- I</p> <p>21 don't remember what the system is that they put</p> <p>22 everything in, but you put it in -- you feed it</p>

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<p>1 all of your criteria and then it will find</p> <p>2 sites that meet that criteria and chances are</p> <p>3 sites you have never, ever, ever, ever, ever</p> <p>4 heard of but it serves your ad, and it's -- it</p> <p>5 gives -- is the opportunity to reach audiences</p> <p>6 in a way that you wouldn't have normally</p> <p>7 thought to reach them.</p> <p>8 Q. And can you do programmatic</p> <p>9 advertising in mobile applications or for</p> <p>10 mobile ads?</p> <p>11 A. My understanding is that the ads are</p> <p>12 -- are served to different sites, if the site</p> <p>13 is optimized for mobile, and you are accessing</p> <p>14 that site on your mobile, then the answer is</p> <p>15 yes. You are not buying by mobile. The site</p> <p>16 is served -- access -- whoever is using the</p> <p>17 mobile to access that site has the ability to</p> <p>18 see that ad.</p> <p>19 Q. And how about with respect to video</p> <p>20 or streaming? Is there programmatic</p> <p>21 advertising with respect to video or streaming</p> <p>22 ads?</p>	<p>1 THE WITNESS: We know they exist.</p> <p>2 We didn't get this deep in the weeds, but this</p> <p>3 was just an overview, this whole deck is an</p> <p>4 overview of the media landscape so that you can</p> <p>5 understand the different terminologies and the</p> <p>6 different types of media there are.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. And from your point of view, whether</p> <p>9 Y&R or Reingold determined using real-time</p> <p>10 bidding versus a private marketplace versus</p> <p>11 programmatic guaranteed, that was a decision</p> <p>12 left to them; is that correct?</p> <p>13 MS. ZWOLINSKI: Objection. Form.</p> <p>14 THE WITNESS: Again, whatever we</p> <p>15 used was determined by a whole lot of different</p> <p>16 data points. I mean, if you look at the first</p> <p>17 row under options is programmatic guarantee.</p> <p>18 If you go to pros, it says it allowed buyers to</p> <p>19 guarantee delivery to a specific audience</p> <p>20 across publishers.</p> <p>21 If we are going for a specific</p> <p>22 audience, there is a possibility that is what</p>
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<p>1 MS. ZWOLINSKI: Objection. Form.</p> <p>2 THE WITNESS: My understanding is</p> <p>3 that is just another type of ad that can be</p> <p>4 served through programmatic buying.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. And if you turn to Page 134 ending</p> <p>7 in Bates 65.</p> <p>8 Is this slide depicting the variety</p> <p>9 of ways in which the census bureau could engage</p> <p>10 in programmatic advertising?</p> <p>11 MS. ZWOLINSKI: Objection. Form.</p> <p>12 THE WITNESS: What this slide is</p> <p>13 showing are the different options so that we</p> <p>14 understand that there are options. It doesn't</p> <p>15 necessarily say that this is what was</p> <p>16 recommended for the census campaign.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Got it. But you are aware these are</p> <p>19 options for programmatic bidding -- strike</p> <p>20 that -- for programmatic advertising available</p> <p>21 to the census bureau at least in 2018?</p> <p>22 MS. ZWOLINSKI: Objection. Form.</p>	<p>1 they are using. That's -- I can't say for sure</p> <p>2 that they did, but whatever they determined to</p> <p>3 use would be based upon the audience that they</p> <p>4 were trying to reach.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. And so you relied on the ad agencies</p> <p>7 to make the appropriate determination of which</p> <p>8 of these options to use, if any, when trying to</p> <p>9 reach a particular audience, correct?</p> <p>10 MS. ZWOLINSKI: Objection. Form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Okay. And if we go on to Page 150</p> <p>14 -- we are losing a page number, 182 at the</p> <p>15 bottom, 248182.</p> <p>16 This is a slide depicting the</p> <p>17 variety of channels through which advertising</p> <p>18 could be obtained, correct?</p> <p>19 A. Some of them, yes.</p> <p>20 Q. Meaning not all of the channels</p> <p>21 through which advertising could be -- could be</p> <p>22 obtained are on this slide, right?</p>

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<p style="text-align: right;">Page 142</p> <p>1 MS. ZWOLINSKI: Objection. Form.</p> <p>2 THE WITNESS: I'm sorry. I am</p> <p>3 thinking. These are -- okay. I will say yes.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Okay. The types of advertising that</p> <p>6 you would consider digital fall under the</p> <p>7 heading of digital.</p> <p>8 Which one of those are depicted</p> <p>9 here?</p> <p>10 MS. ZWOLINSKI: Objection. Form.</p> <p>11 THE WITNESS: Well, the interesting</p> <p>12 thing here is that you have digital, but then</p> <p>13 you are very clearly saying social, you are</p> <p>14 very clearly saying programmatic, and you're</p> <p>15 very clearly saying search, so given that those</p> <p>16 three have been teased out here and we have</p> <p>17 only been talking about four types under the</p> <p>18 digital, it would seem that they're thinking --</p> <p>19 no.</p> <p>20 My impression, my understanding is</p> <p>21 that it's more site-direct because the other</p> <p>22 three are very specific.</p>	<p style="text-align: right;">Page 144</p> <p>1 impression is how many times it's seen or it's</p> <p>2 a brand -- I mean, it is an industry standard</p> <p>3 measurement.</p> <p>4 Q. And so in terms of how programmatic</p> <p>5 measurements are made and how digital</p> <p>6 advertisements are made, they are both with</p> <p>7 respect to impressions, at least according to</p> <p>8 this chart; is that right?</p> <p>9 A. According to --</p> <p>10 MS. ZWOLINSKI: Objection to form.</p> <p>11 THE WITNESS: According to this</p> <p>12 chart, yes.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Okay. And so if you are evaluating</p> <p>15 -- well, when you were evaluating what kinds of</p> <p>16 channels to use in the course of your work for</p> <p>17 the 2020 census, do you consider the fact that</p> <p>18 each of these mechanisms were able to be</p> <p>19 deployed to target a particular audience?</p> <p>20 MS. ZWOLINSKI: Objection to form.</p> <p>21 THE WITNESS: For the 2020 census,</p> <p>22 while everybody is supposed to -- every</p>
<p style="text-align: right;">Page 143</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. And if we look in the strength under</p> <p>3 those four, do all of them contain a notation</p> <p>4 that they permit targeting of a specific</p> <p>5 audience?</p> <p>6 MS. ZWOLINSKI: Objection. Form.</p> <p>7 THE WITNESS: Yes. They all mention</p> <p>8 target or targeting. They don't discuss -- so</p> <p>9 yes.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. And under measurements, digital and</p> <p>12 programmatic both have the terms "viewability</p> <p>13 and impressions," right?</p> <p>14 A. Yes.</p> <p>15 Q. And what does measurement mean here?</p> <p>16 A. It's important to get the most</p> <p>17 number of impressions as possible within the</p> <p>18 realm of reaching your audience and doing it</p> <p>19 efficiently and effectively, so when we look at</p> <p>20 the post-buy analysis, the plan, the -- there</p> <p>21 is a plan number of impressions they expect to</p> <p>22 get, and we -- then you have your actual, so</p>	<p style="text-align: right;">Page 145</p> <p>1 household should respond, it is necessary to</p> <p>2 target, you know, it is not one size fits all.</p> <p>3 You've got to be able to talk to people</p> <p>4 differently.</p> <p>5 You want to be authentic and -- and</p> <p>6 real and you want to know that I am speaking</p> <p>7 directly to you and not to a room of people who</p> <p>8 look like you but don't think like you. That's</p> <p>9 why targeting was very important in all the</p> <p>10 media that we purchased.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. And so could you substitute the use</p> <p>13 of digital site direct with social, for</p> <p>14 example, in order to reach the audience you</p> <p>15 needed to reach?</p> <p>16 MS. ZWOLINSKI: Objection to form.</p> <p>17 THE WITNESS: No. They are all</p> <p>18 tools in the toolbox. They have to work</p> <p>19 together.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. And you could make allocations</p> <p>22 within each of those categories based on what</p>

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<p style="text-align: right;">Page 146</p> <p>1 was the most effective way to reach your</p> <p>2 audience; is that correct?</p> <p>3 MS. ZWOLINSKI: Objection to form.</p> <p>4 THE WITNESS: That is what we</p> <p>5 expected our agencies to do.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Okay. And on the second page of</p> <p>8 this, turning to 152, do you see that the time</p> <p>9 to -- well, what does the media channel</p> <p>10 creative timeline here mean?</p> <p>11 A. My understanding of this is how long</p> <p>12 it takes -- so for digital, if it's a standard</p> <p>13 ad, standard ad -- they needed at least -- we</p> <p>14 have to allow them two weeks from the time we</p> <p>15 get it for them to post it. That is my</p> <p>16 understanding of this. I thought it was</p> <p>17 shorter, but two weeks. If it is custom, six</p> <p>18 weeks from creation to airing.</p> <p>19 Q. And you see that digital and</p> <p>20 programmatic have the same time to airing; is</p> <p>21 that right?</p> <p>22 A. Yes.</p>	<p style="text-align: right;">Page 148</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. So you can't use digital to the</p> <p>3 exclusion of social, but you can make</p> <p>4 appropriate allocations between the two; is</p> <p>5 that fair?</p> <p>6 MS. ZWOLINSKI: Objection to form.</p> <p>7 THE WITNESS: For the 2020 census,</p> <p>8 we needed a holistic approach and the agencies</p> <p>9 buying media on behalf of the census bureau</p> <p>10 used all the tools in their toolbox so that we</p> <p>11 made sure that whether or not -- it doesn't</p> <p>12 matter if you see the ad ten times across</p> <p>13 different platforms, you are seeing the ad, and</p> <p>14 we did not substitute digital for social or</p> <p>15 programmatic. It all depended upon what we</p> <p>16 were trying to achieve and the audience we were</p> <p>17 trying to reach.</p> <p>18 MS. GOODMAN: Shall we take a break?</p> <p>19 MS. ZWOLINSKI: Yes.</p> <p>20 THE VIDEOGRAPHER: Going off the</p> <p>21 record. The time is 12:46.</p> <p>22 (A short recess was taken.)</p>
<p style="text-align: right;">Page 147</p> <p>1 Q. And search also has at least for --</p> <p>2 has two weeks here as well?</p> <p>3 MS. ZWOLINSKI: Objection to form.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. And social is a little bit faster</p> <p>7 than programmatic, search or digital; is that</p> <p>8 right?</p> <p>9 MS. ZWOLINSKI: Objection.</p> <p>10 Foundation.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Okay. And so in looking at the</p> <p>14 media channel summary slide, just one page</p> <p>15 back, is it fair to say that digital, social,</p> <p>16 programmatic and search have similar</p> <p>17 characteristics depicted here?</p> <p>18 MS. ZWOLINSKI: Objection to form.</p> <p>19 THE WITNESS: Well, some of the</p> <p>20 strengths may be similar, they are not the</p> <p>21 same. Thus, you cannot substitute one for the</p> <p>22 other.</p>	<p style="text-align: right;">Page 149</p> <p>1 THE VIDEOGRAPHER: Going back on the</p> <p>2 record. The time is 13:39.</p> <p>3 (Deposition Exhibit 16 was marked</p> <p>4 for identification.)</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Ms. Oliphant, I am going to hand you</p> <p>7 Exhibit 16, CENSUS-ADS-168193 through 195.</p> <p>8 MS. ZWOLINSKI: Do you have a copy?</p> <p>9 MS. GOODMAN: Oh, sorry.</p> <p>10 MS. ZWOLINSKI: Thank you.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. And this is an e-mail you received</p> <p>13 from Jack Benson at Reingold on June 9, 2020.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And he is following if up on our</p> <p>17 recent click-to-call conversations.</p> <p>18 Do you see that in the first line?</p> <p>19 A. Yes.</p> <p>20 Q. And what's your understanding of</p> <p>21 click-to-call in this context?</p> <p>22 A. This had to do with -- so</p>

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<p>1 click-to-call means you could click on the ad</p> <p>2 and it would -- it would immediately dial</p> <p>3 whatever number was associated with that ad.</p> <p>4 This was all around questionnaire</p> <p>5 assistance specifically in non-English</p> <p>6 languages.</p> <p>7 Q. And you see he writes: "We would</p> <p>8 recommend implementing both scenarios below</p> <p>9 immediately."</p> <p>10 And then he continues: "We looked</p> <p>11 into options across platforms, and search seems</p> <p>12 to make the most sense, as programmatically we</p> <p>13 cannot deliver call ads in DV360 and we've</p> <p>14 tested social with FB."</p> <p>15 Do you see it that?</p> <p>16 A. Uh-huh.</p> <p>17 Q. What do you understand him to mean</p> <p>18 in that sentence?</p> <p>19 A. That for click-to-call, search is</p> <p>20 the best option. I would assume -- I --</p> <p>21 reading this DV360 seems to be something they</p> <p>22 were using to serve programmatic ads.</p>	<p>1 receive?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: This was a last-minute</p> <p>4 request, and we were trying to honor the</p> <p>5 request. I don't know that we approved this,</p> <p>6 but they did -- he did provide options.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. And what you have -- my question is:</p> <p>9 Did you have discussions with Mr. Benson or</p> <p>10 others at Reingold about the various digital</p> <p>11 channels that they considered with respect to a</p> <p>12 particular ad they were going to place and --</p> <p>13 and what their considerations with respect to</p> <p>14 each of those channels?</p> <p>15 MS. ZWOLINSKI: Objection to form.</p> <p>16 THE WITNESS: Our normal -- what we</p> <p>17 do is a performance-based contract. We provide</p> <p>18 -- we state the problem, and we ask them to</p> <p>19 come back with a recommendation to solve that</p> <p>20 problem, to address that problem.</p> <p>21 In this case it was adding this CQA,</p> <p>22 consensus questionnaire assistance, phone</p>
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<p>1 And I don't know what he means,</p> <p>2 like, we tested with social with F- -- I'm</p> <p>3 sure -- I know FB is Facebook. When this was</p> <p>4 written, I could have told you exactly what</p> <p>5 everything meant. But, yeah, that's pretty</p> <p>6 much it.</p> <p>7 Q. And so with respect to achieving</p> <p>8 the -- the goal of serving click-to-call ads,</p> <p>9 the ad agency considered a variety of channels,</p> <p>10 including programmatic, social, and search; is</p> <p>11 that correct?</p> <p>12 MS. ZWOLINSKI: Objection to form.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. And did you routinely have</p> <p>16 conversations or e-mail communications with</p> <p>17 Mr. Benson with respect to the best channel</p> <p>18 through which to serve a particular ad?</p> <p>19 MS. ZWOLINSKI: Objection. Form.</p> <p>20 THE WITNESS: No.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. So this e-mail was unusual to</p>	<p>1 number on specific ads and how would that be</p> <p>2 done in a digital format through digital ads --</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. Okay.</p> <p>5 A. -- but we also had the same</p> <p>6 conversation happening through the other types</p> <p>7 of media.</p> <p>8 Q. And so from your point of view as</p> <p>9 the advertiser, did it matter to you what</p> <p>10 channel -- programmatic, search, or social --</p> <p>11 this particular ad was served through?</p> <p>12 MS. ZWOLINSKI: Objection. Form.</p> <p>13 THE WITNESS: What would matter to</p> <p>14 me is if I was asked why it's only on -- why</p> <p>15 are we only addressing this through search and</p> <p>16 no other means. This would serve as a -- the</p> <p>17 background for why that was the way we went.</p> <p>18 Those are the kinds of questions we</p> <p>19 would have to respond to from stakeholders if</p> <p>20 that actually did come up, but this is what I</p> <p>21 would call a general approach to a request that</p> <p>22 was made about adding the call-in number.</p>

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<p>1 BY MS. GOODMAN:</p> <p>2 Q. And you expected Reingold to</p> <p>3 consider a variety of options and channels</p> <p>4 available to the census to -- to serve that</p> <p>5 particular ad; is that right?</p> <p>6 MS. ZWOLINSKI: Objection. Form.</p> <p>7 THE WITNESS: Series -- it's a</p> <p>8 series of ads. It's not just one add, so yes,</p> <p>9 and it's multiple audiences, so yes.</p> <p>10 MS. GOODMAN: All right. Let's see.</p> <p>11 77.</p> <p>12 (Deposition Exhibit 17 was marked</p> <p>13 for identification.)</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. I am going to hand you Exhibit 17,</p> <p>16 CENSUS-ADS-709936 through 709990 -- 991.</p> <p>17 And this is a deck titled: "Order</p> <p>18 15, Media Strategy, 2020 Census Integrated</p> <p>19 Communications Contract, November 5, 2018."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And was this a deck you have</p>	<p>1 Page 25 ending in 960, and here we are talking</p> <p>2 about the TV -- the slide is talking about the</p> <p>3 TV channel; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And you see a bullet on</p> <p>6 connected TV penetration?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And it says: "Connected TV</p> <p>9 penetration has increased 208 percent since</p> <p>10 2010 resulting in a more fragmented video</p> <p>11 landscape."</p> <p>12 What is connected TV?</p> <p>13 A. I would like to say that it is</p> <p>14 cable, streaming, because they're connected to</p> <p>15 the Internet or connected in some -- yeah.</p> <p>16 Q. And why was it important to take</p> <p>17 into account that connected TV penetration has</p> <p>18 increased 208 percent since 2010 in developing</p> <p>19 a media strategy for the TV channel?</p> <p>20 MS. ZWOLINSKI: Objection. Form.</p> <p>21 THE WITNESS: This was to help</p> <p>22 manage expectations. The misconception is that</p>
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<p>1 seen before?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And did you attend any</p> <p>4 meetings in which this deck was discussed?</p> <p>5 A. Yes.</p> <p>6 Q. And what do you recall of that</p> <p>7 meeting?</p> <p>8 Let me ask more specifically. When</p> <p>9 did this -- when did this meeting take place?</p> <p>10 A. Likely on November 5, 2018.</p> <p>11 Q. And what was the purpose of it?</p> <p>12 A. This was, again, like, the Media</p> <p>13 101, this was an opportunity -- well, this is a</p> <p>14 meeting where we actually discussed their</p> <p>15 recommended strategy for each phase of the</p> <p>16 campaign in terms of messaging and media.</p> <p>17 Q. Okay. And if you turn to page</p> <p>18 ending in 956, we are headed into a section on</p> <p>19 media strategies by channel.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And now I would like you to turn to</p>	<p>1 you can get -- you can get so many people when</p> <p>2 you -- when you do TV advertising. From a</p> <p>3 national perspective, you can, but when you're</p> <p>4 reaching specific audiences, regular TV is not</p> <p>5 always the best option.</p> <p>6 When you -- when you're looking at</p> <p>7 the recommended program or the recommended</p> <p>8 channels on cable, so to speak, you've got to</p> <p>9 understand that their share of the market is so</p> <p>10 much smaller. They reach -- we need to reach,</p> <p>11 but their share of the market is very small.</p> <p>12 Or, for example, when you're looking</p> <p>13 at media vehicles, TV media vehicles, TV cable</p> <p>14 media vehicles to reach ethnic audiences, like</p> <p>15 Black African-American, the misconception is</p> <p>16 BETT has a large share of the market, but in</p> <p>17 reality, the share is so incredibly small. Do</p> <p>18 we -- do we actually buy them? Is it worth our</p> <p>19 money to buy them?</p> <p>20 So you have to look at not only the</p> <p>21 share of the market, the cost of the media, the</p> <p>22 audience that you're trying to reach, whether</p>

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<p>1 or not you can achieve that some other way, and</p> <p>2 then, to make it worse, the perception if you</p> <p>3 don't use them.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. And would connected TV include</p> <p>6 advertising on, for example, Hulu or Fubo TV,</p> <p>7 other streaming apps?</p> <p>8 MS. ZWOLINSKI: Objection. Form.</p> <p>9 THE WITNESS: I'm not sure.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Do you see the second bullet below</p> <p>12 sort of indented under "connected TV"?</p> <p>13 A. Uh-huh.</p> <p>14 Q. And it talks about new digital</p> <p>15 viewing options, such as OTT and short-,</p> <p>16 long-form content across the web.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. What does that mean? What did you</p> <p>20 understand that to mean?</p> <p>21 A. I cannot remember -- let me pause.</p> <p>22 I cannot remember what OTT stands</p>	<p>1 viewing options that are referenced or that</p> <p>2 would fall within this bullet on --</p> <p>3 A. Twitter.</p> <p>4 MS. ZWOLINSKI: Objection. Form.</p> <p>5 THE WITNESS: I'm sorry.</p> <p>6 It's supports video, usually in</p> <p>7 short form. No, not off the top -- no, I</p> <p>8 can't.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And if we turn to Page 36 ending in</p> <p>11 971, here we are talking about the programmatic</p> <p>12 digital channel.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And is it accurate that programmatic</p> <p>16 advertising can deliver ads on online sites and</p> <p>17 apps and in more ways, as reflected in the</p> <p>18 second bullet?</p> <p>19 A. That is my understanding.</p> <p>20 Q. Okay. And you see one of the -- the</p> <p>21 third bullet says: "One of the biggest content</p> <p>22 consumption trends is the increase in time</p>
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<p>1 for, over the something. But you go back --</p> <p>2 TikTok, YouTube, a lot of advertisers are using</p> <p>3 these because they offer the ability to have</p> <p>4 short -- short -- short-form videos. I mean,</p> <p>5 TikTok is all short-form videos, but YouTube,</p> <p>6 you can have short-form or long-term videos.</p> <p>7 It all depends, and it depends on the audience</p> <p>8 that you're trying to reach and the way those</p> <p>9 vehicles are segmented for the different</p> <p>10 audiences.</p> <p>11 Q. And the last few words here talk</p> <p>12 about across the web. Can you think of other</p> <p>13 kinds of connected TV channels across the web</p> <p>14 through which, as an advertiser, the census</p> <p>15 bureau wanted to use?</p> <p>16 MS. ZWOLINSKI: Objection. Form.</p> <p>17 THE WITNESS: I don't recall.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Would Hulu constitute a connected TV</p> <p>20 channel?</p> <p>21 A. I don't recall.</p> <p>22 Q. And can you think of any new digital</p>	<p>1 spent per day with digital video."</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And can video ads be served</p> <p>5 programmatically?</p> <p>6 A. I believe they can, yes.</p> <p>7 Q. And so on Page 37, the next page,</p> <p>8 where it talks about programmatic strategies in</p> <p>9 the -- in the box.</p> <p>10 A. Yes.</p> <p>11 Q. The first bullet says: "Use</p> <p>12 streaming video, rich media, and banner ads</p> <p>13 driving to the 2020 census website to educate</p> <p>14 and motivate low-response audiences in areas."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And so did the census bureau use</p> <p>18 programmatic advertising through -- with</p> <p>19 streaming video, rich media, and banner ads in</p> <p>20 the course of the advertising campaign for the</p> <p>21 census?</p> <p>22 MS. ZWOLINSKI: Objection. Form.</p>

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<p>1 THE WITNESS: Yes.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. And do you know specifically how</p> <p>4 your advertising agencies delivered these kinds</p> <p>5 of programmatic ads?</p> <p>6 MS. ZWOLINSKI: Objection. Form.</p> <p>7 THE WITNESS: No.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. In the e-mail we were looking at</p> <p>10 earlier -- I can't recall what exhibit number</p> <p>11 it was -- yes.</p> <p>12 A. 16.</p> <p>13 Q. It mentioned DV360.</p> <p>14 A. Yes.</p> <p>15 Q. Do you know what that is?</p> <p>16 A. I recall seeing -- seeing it. I</p> <p>17 could not -- I can't describe exactly what it</p> <p>18 is. My assumption -- well, no. I don't know</p> <p>19 what it is.</p> <p>20 Q. Do you know what it stands for?</p> <p>21 A. No, I do not.</p> <p>22 Q. Do you know what company owns or</p>	<p>1 THE WITNESS: It just -- it was</p> <p>2 another piece of information to prove that we</p> <p>3 needed to use all the tools in our toolbox and</p> <p>4 not just focus on one.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. And did site direct provide a way to</p> <p>7 reach audiences that have ad blockers?</p> <p>8 A. It was one way, yes.</p> <p>9 Q. Can you think of other ways that the</p> <p>10 census reached people who have ad blockers</p> <p>11 through digital means?</p> <p>12 MS. ZWOLINSKI: Objection. Form.</p> <p>13 THE WITNESS: Through social.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. And how about search?</p> <p>16 A. Search. We did not serve ads. We</p> <p>17 just made sure census bureau was at the top of</p> <p>18 the list when somebody searched on any of the</p> <p>19 -- on any of the key words that we agreed upon.</p> <p>20 Q. Are you referring to search engine</p> <p>21 optimization?</p> <p>22 MS. ZWOLINSKI: Objection. Form.</p>
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<p>1 operates or offers -- offers it to the public?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: No.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Okay. Back at 17, the big deck from</p> <p>6 the November 8th deck. I think that's the one</p> <p>7 you have in front of you.</p> <p>8 A. Oh.</p> <p>9 MS. ZWOLINSKI: Is it November 5th?</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Sorry. November 5, 2018?</p> <p>12 A. This one?</p> <p>13 Q. Yes. Okay. Turn to Page 40,</p> <p>14 please, ending in 975. And in the first</p> <p>15 bullet, it talks about more and more people</p> <p>16 using ad blockers to limit advertising showing</p> <p>17 as they browse the Internet. This particularly</p> <p>18 affects programmatic display.</p> <p>19 What did people's use of -- how did</p> <p>20 people's use of ad blockers inform this</p> <p>21 media-buying strategy for the 2020 census?</p> <p>22 MS. ZWOLINSKI: Objection to form.</p>	<p>1 THE WITNESS: Sounds good.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. But you don't think that the census</p> <p>4 bureau bought search ads to place upon somebody</p> <p>5 searching for a census key word and seeing the</p> <p>6 first ads that pop up on a -- in a search</p> <p>7 engine?</p> <p>8 MS. ZWOLINSKI: Objection. Form.</p> <p>9 THE WITNESS: I don't recall.</p> <p>10 MS. GOODMAN: Okay. Okay. Can I</p> <p>11 have 29.</p> <p>12 (Deposition Exhibit 18 was marked</p> <p>13 for identification.)</p> <p>14 MS. GOODMAN: I am going to hand you</p> <p>15 Exhibit 18, CENSUS-ADS-94975 through 95010.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. And you see this is a congressional</p> <p>18 staff briefing on the 2020 census integrated</p> <p>19 communication campaign update dated May 1,</p> <p>20 2020, right?</p> <p>21 A. Yes.</p> <p>22 Q. Did you attend any congressional</p>

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<p>1 MS. ZWOLINSKI: Objection. Form.</p> <p>2 THE WITNESS: We had a -- an order</p> <p>3 specifically devoted to campaign optimization,</p> <p>4 and so please define what you mean by campaign</p> <p>5 optimization reports.</p> <p>6 MS. GOODMAN: I think I have an</p> <p>7 easier way of going about it, and I'm going to</p> <p>8 hand you Exhibit 19, CENSUS-ADS-0000709885</p> <p>9 through 897.</p> <p>10 (Deposition Exhibit 19 was marked</p> <p>11 for identification.)</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. And my question is whether this is a</p> <p>14 kind of document titled: "Campaign</p> <p>15 Optimization Daily Report," you have seen in</p> <p>16 the course of your work in the 2020 census?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And so what was the purpose</p> <p>19 of these reports?</p> <p>20 A. Every day the campaign optimization</p> <p>21 team met to look at where we were in terms of</p> <p>22 self-response and to deploy various</p>	<p>1 campaign optimization daily report used for?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: It was used to</p> <p>4 evaluate any issues that were being encountered</p> <p>5 that were hindering self-response or -- or</p> <p>6 contributing to lower than expected</p> <p>7 self-response rates and then recommendations to</p> <p>8 mitigate.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And would paid -- would digital</p> <p>11 advertising -- would issues with respect to</p> <p>12 digital advertising be depicted in campaign</p> <p>13 optimization daily reports if it was an issue</p> <p>14 needing to be a priority issue?</p> <p>15 MS. ZWOLINSKI: Objection. Form.</p> <p>16 THE WITNESS: If by some -- for some</p> <p>17 reason digital advertising was impeding</p> <p>18 self-response, then that would be reported</p> <p>19 here.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. So here in the first issue where it</p> <p>22 says: "Need for campaign adjustments in</p>
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<p>1 communication methods or to utilize various</p> <p>2 communication methods to encourage</p> <p>3 self-response, specifically in areas where the</p> <p>4 response was not at the level anticipated.</p> <p>5 Q. And so is the national response rate</p> <p>6 here, is that -- what is that measuring?</p> <p>7 A. How many people have responded</p> <p>8 nationwide or how many households, because it's</p> <p>9 based on households.</p> <p>10 Q. And do you know what the P2E means?</p> <p>11 A. I do. Allow me. Plan -- percent to</p> <p>12 expected.</p> <p>13 Q. Percent to expected?</p> <p>14 A. Yes.</p> <p>15 Q. I see. So it's taking the actual</p> <p>16 and expected on the left-hand side and showing</p> <p>17 how well you're performing relative to what is</p> <p>18 expected?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And what -- on Page 2 where</p> <p>21 it says: "Priority issues and</p> <p>22 recommendations," what was this section of the</p>	<p>1 response to COVID and operational changes,"</p> <p>2 there are various recommendations listed on the</p> <p>3 right-hand side, some of which mention media,</p> <p>4 correct?</p> <p>5 A. Can --</p> <p>6 MS. ZWOLINSKI: Objection. Form.</p> <p>7 THE WITNESS: Can you verify which</p> <p>8 page you are looking at again.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. 86, ending in 86.</p> <p>11 A. And you just -- oh, you're over</p> <p>12 here. Okay. I'm sorry. I couldn't find it on</p> <p>13 the page.</p> <p>14 Q. That's okay.</p> <p>15 A. Would you repeat your question,</p> <p>16 please.</p> <p>17 Q. Yeah. I just want to make sure</p> <p>18 you're -- we're looking at the same thing which</p> <p>19 is with respect to addressing the issue of need</p> <p>20 for campaign adjustments in response to COVID</p> <p>21 and operational changes, the recommendations</p> <p>22 column on the right-hand side includes various</p>

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<p>1 web, digital, and media recommendations, 2 correct? 3 MS. ZWOLINSKI: Objection. Form. 4 THE WITNESS: Can you repeat your 5 question one more time. I'm sorry. 6 BY MS. GOODMAN: 7 Q. That's okay. We'll try it another 8 way. 9 You see on the right-hand side under 10 "recommendations," third bullet down: "Media, 11 reprogramming TV, radio, inventory for 12 canceled, postponed sporting events." 13 Do you see that? 14 A. Yes. 15 Q. And that was one recommended way to 16 address the need for campaign adjustments in 17 response to COVID in operational changes; is 18 that right? 19 A. It was a recommendation that was 20 already in progress. 21 Q. Okay. And one of the 22 recommendations that was complete was web,</p>	<p>1 Q. Uh-huh. 2 A. EPK is electronic press kit. 3 Q. Okay. And so do you know why key 4 word search ads for census plus coronavirus 5 directing to the electronic press kit was a 6 recommendation completed in order to address 7 campaign adjustments in response to COVID? 8 MS. ZWOLINSKI: Objection. Form. 9 THE WITNESS: Because electronic 10 press kit provided all of our statements about 11 how we were adjusting operations in light of 12 everything -- all the changes due to COVID. 13 BY MS. GOODMAN: 14 Q. Okay. And -- okay. And from your 15 point of view, did the campaign optimization 16 daily reports ever address issues with respect 17 to the use of programmatic advertising? 18 MS. ZWOLINSKI: Objection. Form. 19 THE WITNESS: Not that I recall. 20 BY MS. GOODMAN: 21 Q. Okay. What is the CORT/X -- I am on 22 Page 86, right under "priority issues and</p>
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<p>1 published statements on operational updates. 2 Do you see that? 3 A. Yes. 4 Q. And what is web referring to there? 5 A. The -- the 2020 census website. 6 Q. And is that -- that's different from 7 the general census bureau website; is that 8 right? 9 A. It's -- it is -- yes, it's 10 different, but that doesn't mean this wasn't on 11 both sites. 12 Q. And digital where it says: "Deploy 13 key word search ads for census plus coronavirus 14 directing to EPK." 15 Do you see that? 16 A. I do. 17 Q. What is EPK? 18 A. I do not know. 19 Q. Okay. And why was -- do you know 20 why the recommendation was completed to deploy 21 key word search ads for census and coronavirus? 22 A. Can we back up?</p>	<p>1 recommendations." 2 There is an acronym CORT/X. What 3 does that mean? 4 A. So CORT is -- campaign optimization 5 review team or response team, I don't know what 6 the R was, but there was a primary team and the 7 CORT/X was elevating it to a higher level so it 8 included persons like myself, the -- maybe not 9 -- so the assistant directors for 10 communications, the associate director for 11 communications, the assistant and associate 12 director for field division -- field 13 operations, assistant -- I don't know. 14 Somebody higher up in the decennial. 15 I don't remember what -- which 16 position it was, but in some cases, it was the 17 associate director for decennial operations. 18 But it elevated -- the X, the CORT/X was a team 19 that was elevated because it would -- the 20 issues and recommendations would require 21 sign-off from a higher power -- people in 22 higher authority.</p>

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<p>1 Q. Fair to say senior leadership?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And so did you receive these</p> <p>4 campaign optimization daily reports because you</p> <p>5 were a member of the CORT/X team?</p> <p>6 MS. ZWOLINSKI: Objection. Form.</p> <p>7 THE WITNESS: I received it because</p> <p>8 I was part of CORT/X. I received it because</p> <p>9 oftentimes, media was involved, so I was the</p> <p>10 COR for media and I received it because I was</p> <p>11 the chief of the PMO.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. So if we look at Page 87, in the</p> <p>14 middle of the page, right -- sorry, left-hand</p> <p>15 side: "Low response in U/L geos."</p> <p>16 What does that mean?</p> <p>17 A. Update lead geographies, so in some</p> <p>18 cases, the census is conducted by the census</p> <p>19 taker actually going to the residence and</p> <p>20 leaving a form and then you have</p> <p>21 update/enumerate, which would be U/E, where</p> <p>22 they actually go to the home and they enumerate</p>	<p>1 advertising able to be targeted based on</p> <p>2 geography?</p> <p>3 MS. ZWOLINSKI: Objection. Form.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. And so one thing that you had to do</p> <p>7 -- that the census bureau had to do in order to</p> <p>8 address low response in update leave areas, was</p> <p>9 to use digital advertising; is that right?</p> <p>10 MS. ZWOLINSKI: Objection. Form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. And from your point of view as a</p> <p>14 representative of the census working in</p> <p>15 advertising, did it matter to you how T Y&R</p> <p>16 deployed that digital advertising?</p> <p>17 MS. ZWOLINSKI: Objection. Form.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. So we have looked at this media</p> <p>21 buying 101 deck, we saw the media strategy 2018</p> <p>22 deck.</p>
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<p>1 on the spot.</p> <p>2 Q. Meaning complete the census on the</p> <p>3 spot?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And you see in the overview</p> <p>6 section: "TYR is working to deploy digital</p> <p>7 advertising for U/L geos acknowledging the</p> <p>8 reminder letter."</p> <p>9 What does that mean?</p> <p>10 A. There was a reminder letter that was</p> <p>11 sent to households that fell within the update</p> <p>12 leave areas, asking -- reminding them that the</p> <p>13 census was still ongoing and that once field</p> <p>14 operations resumed, they would be visited by an</p> <p>15 enumerator to complete their census.</p> <p>16 Q. And how did they deploy digital</p> <p>17 advertising with respect to that pursuit?</p> <p>18 MS. ZWOLINSKI: Objection. Form.</p> <p>19 THE WITNESS: It would depend upon</p> <p>20 the area and what -- however they could.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. And to your knowledge, is digital</p>	<p>1 Do you consider those documents to</p> <p>2 accurately depict what advertising looks like</p> <p>3 from an advertiser's -- within the industry?</p> <p>4 MS. ZWOLINSKI: Objection. Form.</p> <p>5 THE WITNESS: I think that they</p> <p>6 include a lot of terminology that are standard</p> <p>7 in the industry but the approach -- definitely</p> <p>8 the strategy was tailored to our needs.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And with respect to the strategy</p> <p>11 being tailored to the census bureau's needs, in</p> <p>12 your view, did the strategy deck incorporate</p> <p>13 standard industry terms, practices, and</p> <p>14 channels?</p> <p>15 MS. ZWOLINSKI: Objection. Form.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Okay. Are you familiar with the</p> <p>19 term "open web display advertising"?</p> <p>20 MS. ZWOLINSKI: Objection. Form.</p> <p>21 THE WITNESS: Yes, I have heard it.</p> <p>22 BY MS. GOODMAN:</p>

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<p style="text-align: right;">Page 194</p> <p>1 Q. Where have you heard it?</p> <p>2 A. It was in the filing, the suit.</p> <p>3 Q. Had you heard it prior to the filing</p> <p>4 of the suit?</p> <p>5 A. Not that I recall.</p> <p>6 Q. Did you see it at all in any deck</p> <p>7 that Y&R presented to you in the course of your</p> <p>8 work?</p> <p>9 A. I don't recall.</p> <p>10 Q. Okay. But if it was there, I could</p> <p>11 find it in the documents that the census bureau</p> <p>12 has produced, correct?</p> <p>13 MS. ZWOLINSKI: Objection. Form.</p> <p>14 THE WITNESS: Yeah.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Okay. Prior to reading the filing</p> <p>17 of the lawsuit -- strike that.</p> <p>18 Did you read the -- the lawsuit that</p> <p>19 was filed?</p> <p>20 A. I tried.</p> <p>21 Q. When you say you tried, did you</p> <p>22 succeed?</p>	<p style="text-align: right;">Page 196</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. What is your earliest recollection</p> <p>3 of encountering the term "open web display</p> <p>4 advertising"?</p> <p>5 MS. ZWOLINSKI: Objection. Form.</p> <p>6 THE WITNESS: That is my most recent</p> <p>7 recollection, because previously, I wouldn't</p> <p>8 have committed that to memory.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Why wouldn't you have committed it</p> <p>11 to memory previously?</p> <p>12 A. Because it was not terminology we</p> <p>13 used in the course of what we were doing.</p> <p>14 Q. And what is your understanding of</p> <p>15 the term "open web display advertising"?</p> <p>16 A. I'm not sure.</p> <p>17 Q. And in the course of your work as</p> <p>18 the COR for contract -- Order 15 for paid media</p> <p>19 for the 2020 census, did you develop any</p> <p>20 understanding of the term "open web display</p> <p>21 advertising"?</p> <p>22 MS. ZWOLINSKI: Objection. Form.</p>
<p style="text-align: right;">Page 195</p> <p>1 MS. ZWOLINSKI: Objection. Form.</p> <p>2 THE WITNESS: There -- it's not</p> <p>3 written like a census ad, it is not written for</p> <p>4 the average person to understand. It's a lot</p> <p>5 of legal terminology that -- it's frustrating</p> <p>6 for a nonlegal person.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. When did you read the lawsuit?</p> <p>9 MS. ZWOLINSKI: Objection. Form.</p> <p>10 THE WITNESS: After it was filed and</p> <p>11 I was -- I was made aware that it had been</p> <p>12 filed.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Do you think it was close in time to</p> <p>15 when it was filed on January 24, 2023?</p> <p>16 A. I would think so, yes.</p> <p>17 Q. Okay. And am I -- is it correct</p> <p>18 that the first time you recall hearing the term</p> <p>19 "open web display advertising" was upon reading</p> <p>20 that lawsuit?</p> <p>21 MS. ZWOLINSKI: Objection. Form.</p> <p>22 THE WITNESS: I can't recall.</p>	<p style="text-align: right;">Page 197</p> <p>1 THE WITNESS: I don't recall it</p> <p>2 being used in any of the introductory</p> <p>3 documents. I don't recall it being used in any</p> <p>4 of the media plan documents.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Do you consider open web display</p> <p>7 advertising to be a particular channel through</p> <p>8 which the census bureau could advertise for the</p> <p>9 2020 census?</p> <p>10 MS. ZWOLINSKI: Objection. Form.</p> <p>11 THE WITNESS: My -- my</p> <p>12 interpretation is that it includes multiple</p> <p>13 options.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. That -- that open web display</p> <p>16 advertising includes multiple options? Is that</p> <p>17 what you mean?</p> <p>18 A. Yes. I don't -- my -- my</p> <p>19 interpretation is, it's not focused on only one</p> <p>20 thing but I am not sure.</p> <p>21 Q. Okay. What multiple options are you</p> <p>22 interpreting -- or do you think fall within the</p>

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<p style="text-align: right;">Page 198</p> <p>1 term "open web display advertising"?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: Anything on the web.</p> <p>4 Any -- well, clearly programmatic. I don't --</p> <p>5 that's all I can say would be included. I</p> <p>6 don't know if it includes anything else.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Okay. And with respect to</p> <p>9 programmatic, would it include all of the kinds</p> <p>10 of programmatic options that are available,</p> <p>11 such as real-time bidding and private</p> <p>12 marketplaces for example?</p> <p>13 MS. ZWOLINSKI: Objection. Form.</p> <p>14 THE WITNESS: I don't know.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Would you consider advertising on</p> <p>17 Amazon to be open web display advertising?</p> <p>18 MS. ZWOLINSKI: Objection. Form.</p> <p>19 THE WITNESS: I don't know.</p> <p>20 MS. GOODMAN: Want to take a break?</p> <p>21 THE WITNESS: Yes. I was waiting</p> <p>22 for you to pause and pull out another.</p>	<p style="text-align: right;">Page 200</p> <p>1 document?</p> <p>2 A. This is -- we developed a</p> <p>3 communications plan that we shared publicly and</p> <p>4 then we did an interim plan which was also</p> <p>5 shared publicly. This was to come back and</p> <p>6 close the loop, while it is not inclusive of</p> <p>7 every single thing we did, it is to give --</p> <p>8 really, the public and our stakeholders -- it</p> <p>9 is raining -- the public and our stakeholders</p> <p>10 an opportunity to see some of the -- get a</p> <p>11 final view of some of the things that we did,</p> <p>12 yes.</p> <p>13 Q. So would it be accurate to say this</p> <p>14 is an accurate summary of all of the things</p> <p>15 related to the communications plan for the 2020</p> <p>16 census that actually occurred?</p> <p>17 MS. ZWOLINSKI: Objection to form.</p> <p>18 THE WITNESS: I would say it's very</p> <p>19 broad. It might touch on some of the com- -- I</p> <p>20 will say complexities or issues we encountered,</p> <p>21 and how we worked around them, but it's not</p> <p>22 overly detailed.</p>
<p style="text-align: right;">Page 199</p> <p>1 THE VIDEOGRAPHER: Going off the</p> <p>2 record. The time is 14:42.</p> <p>3 (A short recess was taken.)</p> <p>4 THE VIDEOGRAPHER: Back on the</p> <p>5 record. The time is 15:01.</p> <p>6 (Deposition Exhibit 20 was marked</p> <p>7 for identification.)</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. Ms. Oliphant, I handed you Exhibit</p> <p>10 20, which is titled: "The 2020 Census</p> <p>11 Integrated Communications Plan Final Report,"</p> <p>12 dated May 27, 2021.</p> <p>13 Is this the document that is</p> <p>14 publicly available on the census bureau's</p> <p>15 website to your knowledge?</p> <p>16 A. I believe so.</p> <p>17 Q. Okay. And I will represent to you</p> <p>18 that's where I found it and it is in beautiful</p> <p>19 color and I thought that that was a better use</p> <p>20 of -- better way to read this document than how</p> <p>21 it gets produced without color.</p> <p>22 So I want to -- what is this</p>	<p style="text-align: right;">Page 201</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. And -- so while it does not cover</p> <p>3 every day moment decision in time for the 2020</p> <p>4 integrated communications plan, does it</p> <p>5 accurately -- to the extent it discusses</p> <p>6 something, is it a true and accurate discussion</p> <p>7 of what took place?</p> <p>8 MS. ZWOLINSKI: Objection. Form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Okay. So let's go to Page 14, and</p> <p>12 in the third bullet: "Advertising and media</p> <p>13 buying," is it an accurate statement that:</p> <p>14 "The campaign also deployed a broad range of</p> <p>15 digital paid social e-mail marketing and</p> <p>16 keyword search advertisements that could be</p> <p>17 easily tailored, targeted and adapted to reach</p> <p>18 distinct audience groups"?</p> <p>19 A. Yes.</p> <p>20 Q. And if you turn to Page 21 under:</p> <p>21 "Use of technology and data-driven</p> <p>22 optimization," you see the sentence beginning:</p>

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<p>1 "For example," kind of in the middle of the</p> <p>2 paragraph?</p> <p>3 A. Yes.</p> <p>4 Q. And you see that this section</p> <p>5 discusses the use of digital and social media</p> <p>6 channels, correct?</p> <p>7 MS. ZWOLINSKI: Objection. Form.</p> <p>8 THE WITNESS: Correct.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And is it -- is this section at all</p> <p>11 specific to open web display advertising to the</p> <p>12 extent you understand that term?</p> <p>13 MS. ZWOLINSKI: Objection. Form.</p> <p>14 THE WITNESS: I would not say it's</p> <p>15 specific to it but portions of it.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Okay. And what portions of it?</p> <p>18 A. Well, based upon my interpretation</p> <p>19 of what open web that term means, I don't know</p> <p>20 that I would include social media platforms,</p> <p>21 but I'm not sure, in the way that they -- not</p> <p>22 the advertising on them, but the use of them by</p>	<p>1 through channels with which they were likely to</p> <p>2 engage."</p> <p>3 Did I read that accurately?</p> <p>4 A. Yes.</p> <p>5 Q. And what advanced digital and social</p> <p>6 media ad serving platforms were used by the</p> <p>7 census bureau alongside other data on census</p> <p>8 response rates in order to adjust campaign</p> <p>9 elements during the campaign execution?</p> <p>10 MS. ZWOLINSKI: Objection. Form.</p> <p>11 THE WITNESS: I don't know.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. To your knowledge, did, in fact, the</p> <p>14 census bureau adjust campaign elements with the</p> <p>15 aid of advanced digital and social media ad</p> <p>16 serving platforms?</p> <p>17 MS. ZWOLINSKI: Objection. Form.</p> <p>18 THE WITNESS: To my knowledge, the</p> <p>19 census bureau did adjust campaign elements. I</p> <p>20 can't necessarily say they were all done</p> <p>21 through ad serving platforms, advanced digital</p> <p>22 and social media ad serving platforms.</p>
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<p>1 partners to encourage the partner serving as</p> <p>2 trusted voices and using their own properties,</p> <p>3 social media -- own social media properties to</p> <p>4 encourage participation, so that's not</p> <p>5 advertising.</p> <p>6 Q. I see. So who are the partners</p> <p>7 referenced in this paragraph?</p> <p>8 A. Anybody and everybody that wanted to</p> <p>9 ensure an accurate census, so they were</p> <p>10 official partners of the census bureau but also</p> <p>11 a lot of unofficial partners of the census</p> <p>12 bureau.</p> <p>13 Q. I see. Okay. Now turning to Page</p> <p>14 22, first paragraph at the top, there is a</p> <p>15 sentence beginning -- that reads: "By tracking</p> <p>16 and analyzing this data alongside census</p> <p>17 response rates, the census bureau could quickly</p> <p>18 adjust campaign elements during campaign</p> <p>19 execution if issues were noted. More broadly,</p> <p>20 the advanced technology helps us optimize the</p> <p>21 campaign enabling us to reach audiences with</p> <p>22 messages that were likely to appeal to them</p>	<p>1 BY MS. GOODMAN:</p> <p>2 Q. Do you know what that is a reference</p> <p>3 to?</p> <p>4 A. The advanced digital and social</p> <p>5 media ad serving platforms?</p> <p>6 Q. Correct.</p> <p>7 A. I -- my interpretation is that it is</p> <p>8 how the ads were served through digital</p> <p>9 properties.</p> <p>10 Q. And would that include, to your</p> <p>11 knowledge, sites like Facebook, Amazon, Hulu,</p> <p>12 Pinterest, Google?</p> <p>13 MS. ZWOLINSKI: Objection. Form.</p> <p>14 THE WITNESS: I'm not sure.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Would it be limited to any</p> <p>17 particular type of display -- digital</p> <p>18 advertising?</p> <p>19 MS. ZWOLINSKI: Objection to form.</p> <p>20 THE WITNESS: My interpretation is</p> <p>21 if you are using ad serving platforms, that's</p> <p>22 more akin to programmatic as opposed to site</p>

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<p style="text-align: right;">Page 294</p> <p>1 explain what you mean by that?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: Most -- the site</p> <p>4 directs, we had a pretty good understanding of</p> <p>5 which sites they were going to directly because</p> <p>6 it was -- they -- we worked hard for</p> <p>7 integrations and added value and thing like --</p> <p>8 and things like that. If it was a site that</p> <p>9 didn't ring a bell, it was an obscure site, by</p> <p>10 obscure, I mean I just don't know about the</p> <p>11 site, not like I know every site, but it would</p> <p>12 be safe to assume it was -- it doesn't matter.</p> <p>13 Really didn't matter how they got</p> <p>14 the ad. It was on this site, and this is the</p> <p>15 audience that it was trying to reach.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. To your knowledge, did the census</p> <p>18 bureau ever obtain a list of all of the</p> <p>19 websites on which any census ad was placed?</p> <p>20 MS. ZWOLINSKI: Objection. Form.</p> <p>21 THE WITNESS: I don't recall.</p> <p>22 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 296</p> <p>1 does it pay money to an ad exchange or serving</p> <p>2 platform who then disseminates the ads?</p> <p>3 MS. ZWOLINSKI: Objection. Form.</p> <p>4 Foundation.</p> <p>5 THE WITNESS: It may go both ways.</p> <p>6 I'm not sure.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Okay. I will hand you Exhibit 25.</p> <p>9 I am going out of order. Sorry.</p> <p>10 CENSUS-ADS-204155 through 156.</p> <p>11 (Deposition Exhibit 25 was marked</p> <p>12 for identification.)</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Okay. This is an e-mail you</p> <p>15 received from Mr. Benson on March 3, 2020.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And he is forwarding to you and</p> <p>19 others an e-mail he received from Michael</p> <p>20 Westervelt at Google.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p>
<p style="text-align: right;">Page 295</p> <p>1 Q. Is that something that would have</p> <p>2 been something -- is that the kind of list you</p> <p>3 would want to have in your role as order</p> <p>4 manager on Order 15?</p> <p>5 MS. ZWOLINSKI: Objection. Form.</p> <p>6 THE WITNESS: It -- given the sheer</p> <p>7 volume, no.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. And to your knowledge, did the</p> <p>10 subcontractor responsible for media buys, buy</p> <p>11 the advertising placement directly from those</p> <p>12 websites?</p> <p>13 MS. ZWOLINSKI: Objection. Form.</p> <p>14 THE WITNESS: The subcontractor</p> <p>15 responsible for digital media buys would buy</p> <p>16 directly from the sites if it was site direct.</p> <p>17 If it was programmatic, it would go through an</p> <p>18 ad serving thing.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. And so if it's programmatic, to your</p> <p>21 knowledge, does the subcontractor pay money to</p> <p>22 the site owner on which the ad is served, or</p>	<p style="text-align: right;">Page 297</p> <p>1 Q. Okay. And Mr. Benson thought it --</p> <p>2 you might find it interesting that Google is</p> <p>3 saying: "We have reached 214 million unique</p> <p>4 users, approximately 65 percent of the</p> <p>5 population, on average four-plus times since we</p> <p>6 launched digital."</p> <p>7 Do you see that?</p> <p>8 MS. ZWOLINSKI: Objection. Form.</p> <p>9 Foundation.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. Do you recall receiving this e-mail?</p> <p>13 A. No, but --</p> <p>14 Q. And you see in the chart at the</p> <p>15 bottom, that shows DV360 reaching 214 million</p> <p>16 individuals and then Twitter, U.S. Today,</p> <p>17 Nextdoor, NBC and Facebook also reaching</p> <p>18 various numbers of unique users, right?</p> <p>19 MS. ZWOLINSKI: Objection to form.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. Is it -- so looking at this</p>

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<p style="text-align: right;">Page 298</p> <p>1 document, do you have an understanding now of</p> <p>2 what DV360 is?</p> <p>3 MS. ZWOLINSKI: Objection. Form.</p> <p>4 THE WITNESS: My understanding would</p> <p>5 be it's used to serve ads.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Okay.</p> <p>8 A. Google uses it to serve ads.</p> <p>9 Q. Okay. And so do you see in this</p> <p>10 document then that the reach for the census --</p> <p>11 strike that.</p> <p>12 What is your reaction to the news</p> <p>13 that Google is saying you have reached 214</p> <p>14 million unique users as of March 3, 2020?</p> <p>15 MS. ZWOLINSKI: Objection. Form.</p> <p>16 THE WITNESS: That's a good thing.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. I'm sorry?</p> <p>19 A. That's a good thing.</p> <p>20 Q. And did Google help the census</p> <p>21 bureau obtain its advertising goals?</p> <p>22 MS. ZWOLINSKI: Objection. Form.</p>	<p style="text-align: right;">Page 300</p> <p>1 Q. Okay. But just in terms of the</p> <p>2 course of your experience working on Order 15,</p> <p>3 does any one particular advertising mechanism</p> <p>4 stand out to you as one that was particularly</p> <p>5 effective in helping the census bureau obtain</p> <p>6 its goals?</p> <p>7 MS. ZWOLINSKI: Objection. Form.</p> <p>8 THE WITNESS: They really all -- if</p> <p>9 they didn't work together, because they all</p> <p>10 bring something different to the table to reach</p> <p>11 audiences in a different way, and each audience</p> <p>12 receives or utilizes different media. It is --</p> <p>13 it is hard to point to one particular vendor</p> <p>14 and say, you know, they are responsible or they</p> <p>15 had the greatest impact because while it may</p> <p>16 have an impact here, it may not have, overall,</p> <p>17 it may not have had as high of an impact.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. If you needed to figure out how much</p> <p>20 money was paid to Google through funds</p> <p>21 allocated under the Order 15 contract, how</p> <p>22 would you go about doing that?</p>
<p style="text-align: right;">Page 299</p> <p>1 THE WITNESS: The combination of</p> <p>2 Google and all of our advertisers helped us</p> <p>3 obtain our goals.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Okay. And was there any one digital</p> <p>6 tool in your toolkit from your point of view</p> <p>7 that particularly aided in the meeting of the</p> <p>8 goals?</p> <p>9 MS. ZWOLINSKI: Objection. Form.</p> <p>10 THE WITNESS: They all had a part in</p> <p>11 helping us reach our goals.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Did any one of them have a greater</p> <p>14 role than others?</p> <p>15 MS. ZWOLINSKI: Objection. Form.</p> <p>16 THE WITNESS: Well, at this point in</p> <p>17 time, it is clearly Google, but this is just a</p> <p>18 snapshot in time so -- and this is before</p> <p>19 pandemic, so no, I have no -- I can't speak to</p> <p>20 any time later without a similar type of</p> <p>21 report.</p> <p>22 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 301</p> <p>1 MS. ZWOLINSKI: Objection. Form.</p> <p>2 THE WITNESS: I would contact the</p> <p>3 buying agency. I would call Reingold.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Have you had to call Reingold in the</p> <p>6 course of this litigation to figure out how</p> <p>7 much money has been paid to Google?</p> <p>8 MS. ZWOLINSKI: Objection.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. And to your knowledge, is there a</p> <p>12 way to figure out how much money was paid to</p> <p>13 Google for programmatic advertising?</p> <p>14 MS. ZWOLINSKI: Objection. Form.</p> <p>15 THE WITNESS: I don't have those</p> <p>16 means. Census doesn't have that. We would go</p> <p>17 directly to Reingold.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. So sitting here today, if you could</p> <p>20 only rely on the census bureau to figure out</p> <p>21 how much money was paid to Google through funds</p> <p>22 allocated in Order 15, how would you do that?</p>

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<p style="text-align: right;">Page 302</p> <p>1 MS. ZWOLINSKI: Objection. Form.</p> <p>2 Foundation.</p> <p>3 THE WITNESS: The only thing we have</p> <p>4 is the post-buy analysis but it provides by</p> <p>5 category, so anything that you devise, you --</p> <p>6 you determine based upon the amount spent in</p> <p>7 that category. I mean, I don't know that</p> <p>8 anybody could come up with that efficiently,</p> <p>9 you know, come up -- it would be a really rough</p> <p>10 estimate.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. And using that post-buy analysis,</p> <p>13 would you be able to determine the various</p> <p>14 specific products or specific vendors used to</p> <p>15 purchase that type of ad?</p> <p>16 MS. ZWOLINSKI: Objection. Form.</p> <p>17 THE WITNESS: No. The post-buy</p> <p>18 analysis gives you information by audience, by</p> <p>19 media type, by -- in some cases, geography, but</p> <p>20 it does not specify vendors.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. And does it specify price?</p>	<p style="text-align: right;">Page 304</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. So in the course of Order 15, to</p> <p>3 your knowledge, did the census bureau purchase</p> <p>4 any product directly from Google?</p> <p>5 MS. ZWOLINSKI: Objection. Form.</p> <p>6 Foundation.</p> <p>7 THE WITNESS: Under Order 15 the</p> <p>8 census bureau did not purchase anything</p> <p>9 directly from Google.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. And under Order 15, did the census</p> <p>12 bureau purchase any particular ad tech service</p> <p>13 directly from Google?</p> <p>14 MS. ZWOLINSKI: Objection. Form.</p> <p>15 Foundation.</p> <p>16 THE WITNESS: Under Order 15 the</p> <p>17 census bureau did not purchase any particular</p> <p>18 ad-serving technology -- I think that's what</p> <p>19 you used -- from Google.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. And did the census bureau under</p> <p>22 Order 15 purchase any open web display</p>
<p style="text-align: right;">Page 303</p> <p>1 MS. ZWOLINSKI: Objection. Form.</p> <p>2 THE WITNESS: Price by vendor?</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. Sure.</p> <p>5 A. No. It is all aggregate</p> <p>6 information.</p> <p>7 Q. Okay. And sitting here today, do</p> <p>8 you have an understanding that the United</p> <p>9 States is seeking to obtain damages from Google</p> <p>10 in this lawsuit?</p> <p>11 MS. ZWOLINSKI: Objection. Form.</p> <p>12 THE WITNESS: I'm not sure what the</p> <p>13 United States is trying to get from Google.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. Have you -- do you have any</p> <p>16 understanding as to whether the census bureau</p> <p>17 overpaid Google in the course of the 2020</p> <p>18 census?</p> <p>19 MS. ZWOLINSKI: Objection. Form.</p> <p>20 Foundation.</p> <p>21 THE WITNESS: I have no basis of</p> <p>22 comparison.</p>	<p style="text-align: right;">Page 305</p> <p>1 advertising directly from Google?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 Foundation.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. And under Order 15, did the census</p> <p>7 bureau pay Google directly for the use of</p> <p>8 DV360?</p> <p>9 MS. ZWOLINSKI: Objection. Form.</p> <p>10 Foundation.</p> <p>11 THE WITNESS: No.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Did the census bureau pay Google</p> <p>14 directly for the use of Google display network?</p> <p>15 MS. ZWOLINSKI: Objection. Form.</p> <p>16 Foundation.</p> <p>17 THE WITNESS: No.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. And did the census bureau pay Google</p> <p>20 directly for the use of Google marketing</p> <p>21 platform?</p> <p>22 MS. ZWOLINSKI: Objection. Form.</p>

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<p>1 Foundation.</p> <p>2 THE WITNESS: No.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. To your knowledge, did the census</p> <p>5 bureau pay Google directly for the use of</p> <p>6 Google ads?</p> <p>7 MS. ZWOLINSKI: Objection. Form.</p> <p>8 Foundation.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Are you aware of a census digital ad</p> <p>12 study that is in the process of being prepared</p> <p>13 at the census bureau?</p> <p>14 MS. ZWOLINSKI: Objection. Form.</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. What is the census digital ad study?</p> <p>18 A. The research arm or research</p> <p>19 division of the decennial directorate utilized</p> <p>20 any available data to determine whether or not</p> <p>21 digital advertising -- I think -- digital</p> <p>22 advertising was effective.</p>	<p>1 BY MS. GOODMAN:</p> <p>2 Q. Why is that?</p> <p>3 A. Pricing data is proprietary to</p> <p>4 the -- to the buying agencies, and they would</p> <p>5 have only gotten aggregate. There wouldn't</p> <p>6 have been a price per ad, price -- we</p> <p>7 wouldn't -- we didn't have that kind of</p> <p>8 information to share.</p> <p>9 Q. Okay. But Reingold was directed to</p> <p>10 provide this data to the research division,</p> <p>11 correct?</p> <p>12 MS. ZWOLINSKI: Objection. Form.</p> <p>13 THE WITNESS: Anything that was not</p> <p>14 proprietary, yes.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. And you've read the draft report; is</p> <p>17 that correct?</p> <p>18 MS. ZWOLINSKI: Objection. Form.</p> <p>19 THE WITNESS: Yes, some time ago.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Back to the data, do you know</p> <p>22 whether that data has been collected in</p>
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<p>1 Q. And did you facilitate that</p> <p>2 provision of data to the research division for</p> <p>3 purposes of that study?</p> <p>4 MS. ZWOLINSKI: Objection. Form.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. And what data was provided?</p> <p>8 A. A lot of things that I probably --</p> <p>9 let's see. A lot of industry terminology, so</p> <p>10 whatever they were asking for, Reingold</p> <p>11 understood it. That's all that mattered, and</p> <p>12 they provided it. Census ID numbers, names of</p> <p>13 ads, it's -- I don't -- it was a myriad of</p> <p>14 information. Any kind of identifier they could</p> <p>15 -- that's -- I don't know.</p> <p>16 Q. Okay.</p> <p>17 A. It's a lot.</p> <p>18 Q. Did it include pricing data to your</p> <p>19 knowledge?</p> <p>20 MS. ZWOLINSKI: Objection. Form.</p> <p>21 THE WITNESS: I -- they may have</p> <p>22 asked for it, but I don't think we provided it.</p>	<p>1 connection with this litigation?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: Not specifically. It</p> <p>4 would have been in whatever they -- if it was</p> <p>5 -- if the draft report was in the share drive,</p> <p>6 then -- or in my e-mail then -- or in my files,</p> <p>7 then the answer would be yes but not</p> <p>8 specifically.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Okay. But with respect to the</p> <p>11 actual underlying data that is analyzed by the</p> <p>12 research division, do you have access to that</p> <p>13 data?</p> <p>14 MS. ZWOLINSKI: Objection. Form.</p> <p>15 THE WITNESS: I am thinking. I</p> <p>16 honestly don't recall.</p> <p>17 MS. GOODMAN: Okay. I will hand you</p> <p>18 Exhibit 29, CENSUS-ADS-74490 through 42.</p> <p>19 (Deposition Exhibit 29 was marked</p> <p>20 for identification.)</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. Okay. This is the draft of the</p>

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<p style="text-align: right;">Page 310</p> <p>1 census digital ad study, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And if you flip through at</p> <p>4 least on page -- let's turn to Page 74509. Do</p> <p>5 you see a comment bubble with KBJ --</p> <p>6 MS. ZWOLINSKI: Are you on the</p> <p>7 page --</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. -- in the right-hand margin?</p> <p>10 A. 509?</p> <p>11 Q. Yes.</p> <p>12 A. Yes.</p> <p>13 Q. And is that a comment bubble</p> <p>14 authored by you, KBJ?</p> <p>15 A. That is me.</p> <p>16 Q. Okay. And here you're stating that</p> <p>17 there are public documents disclosing the</p> <p>18 rounded amount for digital advertising but</p> <p>19 providing exact numbers will lead the curious</p> <p>20 to identify how much was spent per digital ad</p> <p>21 for paid media.</p> <p>22 Do you see that?</p>	<p style="text-align: right;">Page 312</p> <p>1 review it and comment upon it, correct?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: I'm sorry. Can you</p> <p>4 repeat.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. You had the opportunity to review</p> <p>7 and comment on this draft report, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And if there was anything that you</p> <p>10 disagreed with, you would have indicated as</p> <p>11 much in your comments?</p> <p>12 MS. ZWOLINSKI: Objection. Form.</p> <p>13 THE WITNESS: Yes.</p> <p>14 MS. GOODMAN: Okay. So I will hand</p> <p>15 you Exhibit 30, CENSUS-ADS-74369 through 74414.</p> <p>16 (Deposition Exhibit 30 was marked</p> <p>17 for identification.)</p> <p>18 MS. ZWOLINSKI: Can I have a copy of</p> <p>19 the document.</p> <p>20 MS. GOODMAN: Oh, I'm so sorry.</p> <p>21 MS. ZWOLINSKI: That's okay.</p> <p>22 BY MS. GOODMAN:</p>
<p style="text-align: right;">Page 311</p> <p>1 A. Yes.</p> <p>2 Q. So based on this comment, does it</p> <p>3 sound accurate to you that there is pricing</p> <p>4 data that was analyzed in connection with this</p> <p>5 study but that it should not be publicly</p> <p>6 reported?</p> <p>7 MS. ZWOLINSKI: Objection. Form.</p> <p>8 THE WITNESS: Reading the</p> <p>9 methodology cited on the page ending in 496,</p> <p>10 second paragraph under methodology, they</p> <p>11 mention response per impression rate, which</p> <p>12 describe the percent of people who clicked on</p> <p>13 the advertisement and the percent of people who</p> <p>14 clicked and responded to the census after</p> <p>15 seeing the advertisement.</p> <p>16 That seems to be -- is that what I</p> <p>17 was looking at? I do not believe we gave them</p> <p>18 actual cost data.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Okay. I will hand you CENSUS-ADS --</p> <p>21 well, before I do that, you had an opportunity</p> <p>22 in the course of the author of this report to</p>	<p style="text-align: right;">Page 313</p> <p>1 Q. And this is a memo --</p> <p>2 MS. ZWOLINSKI: Just one second.</p> <p>3 Sorry.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. -- for the record documenting the</p> <p>6 release of the final version of the 2020 census</p> <p>7 investigating digital advertising and online</p> <p>8 response evaluation report, correct?</p> <p>9 A. Yes.</p> <p>10 MS. ZWOLINSKI: Objection. Form.</p> <p>11 THE WITNESS: If I may, going back</p> <p>12 to the previous question about cost data and my</p> <p>13 comment, we did not provide cost data to them,</p> <p>14 but by saying how many a ads ran and the total</p> <p>15 amount spent, a curious person could try to do</p> <p>16 some math to determine the act of cost. That's</p> <p>17 what my comment was referring to. That's why</p> <p>18 we rounded it versus being very specific.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. And this study advertises --</p> <p>21 evaluates the effectiveness of digital</p> <p>22 advertising, correct?</p>

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<p>1 provided you legal advice?</p> <p>2 MS. ZWOLINSKI: Objection. Form.</p> <p>3 THE WITNESS: No.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Okay. And is your answer the same</p> <p>6 in January of 2023?</p> <p>7 MS. ZWOLINSKI: Objection. Form.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Okay. And in the course of your</p> <p>11 participation in this lawsuit if you've had</p> <p>12 questions about your participation in this</p> <p>13 lawsuit, have you turned to the attorneys at</p> <p>14 the antitrust division with your questions?</p> <p>15 MS. ZWOLINSKI: Objection. Form.</p> <p>16 THE WITNESS: No.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. To whom have you turned, if anyone?</p> <p>19 A. Commerce.</p> <p>20 Q. And is that Mr. Cannon?</p> <p>21 A. That's Mr. Cannon, yes.</p> <p>22 Q. Do you consider the lawyers for the</p>	<p>1 MS. GOODMAN: I have no further</p> <p>2 questions. I'll pass the witness.</p> <p>3 MS. ZWOLINSKI: We have no</p> <p>4 questions.</p> <p>5 MS. GOODMAN: Okay. Thank you so</p> <p>6 much for your time, Ms. Oliphant. I very much</p> <p>7 appreciate it.</p> <p>8 THE WITNESS: You're welcome. Thank</p> <p>9 you.</p> <p>10 THE VIDEOGRAPHER: Off the record.</p> <p>11 MS. GOODMAN: Yes.</p> <p>12 THE VIDEOGRAPHER: This marks the</p> <p>13 end of the deposition of Kendall Oliphant. We</p> <p>14 are going off the record at 18:24.</p> <p>15 (Whereupon, the proceeding was</p> <p>16 concluded at 6:24 p.m.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
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<p>1 antitrust division to be lawyers for the census</p> <p>2 bureau?</p> <p>3 MS. ZWOLINSKI: Objection. Form.</p> <p>4 Foundation.</p> <p>5 THE WITNESS: I do not.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Why not?</p> <p>8 MS. ZWOLINSKI: Objection. Form.</p> <p>9 Foundation.</p> <p>10 THE WITNESS: Since census has their</p> <p>11 own lawyers and we have commerce lawyers, and I</p> <p>12 believe the commerce lawyers would be more --</p> <p>13 more sort of categorized in that way versus</p> <p>14 DOJ.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Okay. And is your answer the same</p> <p>17 with respect to your participation in this</p> <p>18 lawsuit as a representative of the census</p> <p>19 bureau?</p> <p>20 MS. ZWOLINSKI: Objection. Form.</p> <p>21 Foundation.</p> <p>22 THE WITNESS: Yes.</p>	<p>1 CERTIFICATE OF NOTARY PUBLIC</p> <p>2 I, Bonnie L. Russo, the officer before</p> <p>3 whom the foregoing deposition was taken, do</p> <p>4 hereby certify that the witness whose testimony</p> <p>5 appears in the foregoing deposition was duly</p> <p>6 sworn by me; that the testimony of said witness</p> <p>7 was taken by me in shorthand and thereafter</p> <p>8 reduced to computerized transcription under my</p> <p>9 direction; that said deposition is a true</p> <p>10 record of the testimony given by said witness;</p> <p>11 that I am neither counsel for, related to, nor</p> <p>12 employed by any of the parties to the action in</p> <p>13 which this deposition was taken; and further,</p> <p>14 that I am not a relative or employee of any</p> <p>15 attorney or counsel employed by the parties</p> <p>16 hereto, nor financially or otherwise interested</p> <p>17 in the outcome of the action.</p> <p>18</p> <p>19 </p> <p>20 Notary Public in and for</p> <p>21 the District of Columbia</p> <p>22 My Commission expires: August 14, 2025</p>

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